

# Southend-on-Sea Borough Council

Agenda  
Item

Report of the Corporate Director of  
Enterprise, Tourism & the Environment  
To  
Development Control Committee  
On  
20th December 2012

## Report(s) on Planning Applications

### A Part 1 Agenda Item

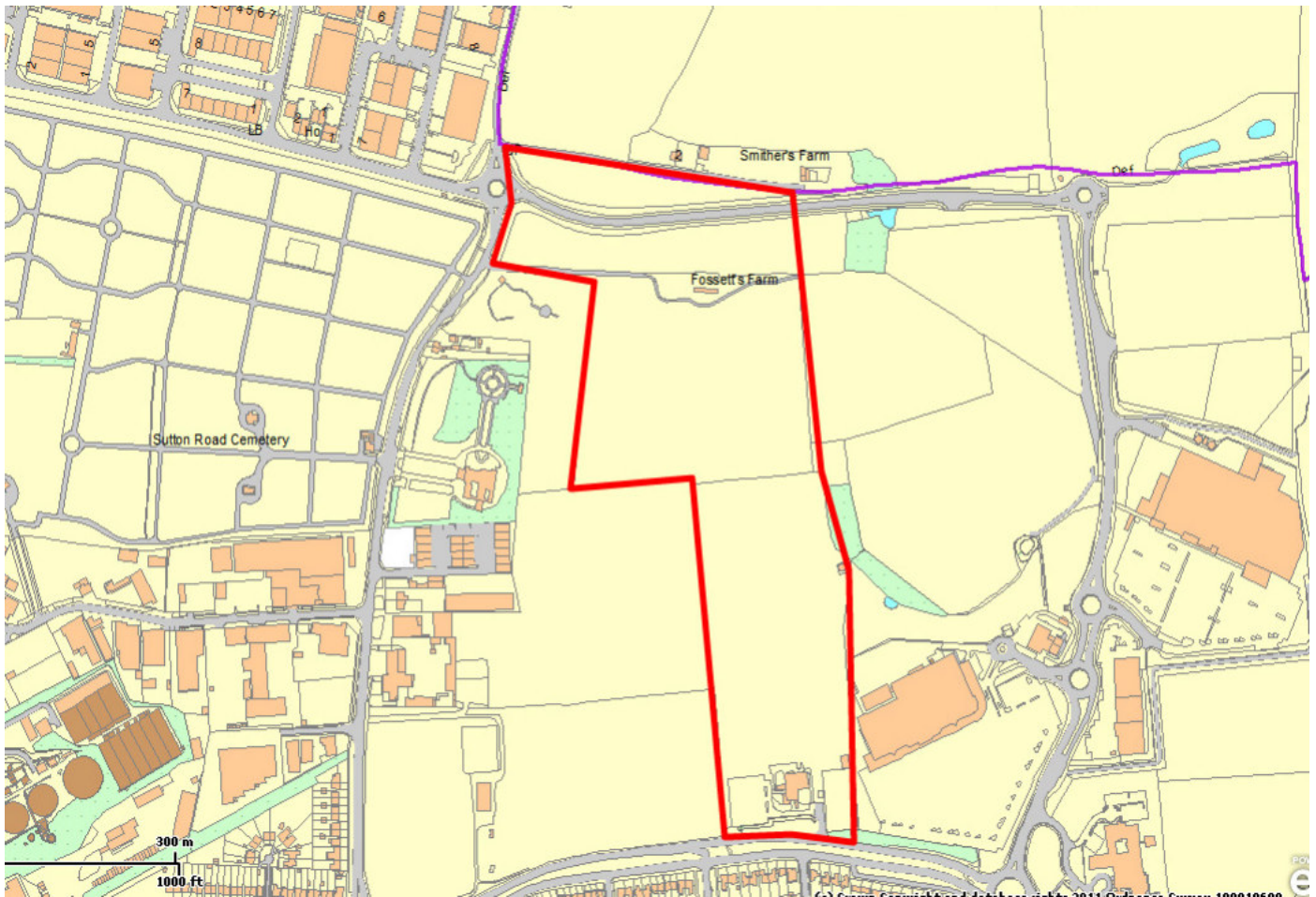
WARD	APP/REF NO.	ADDRESS	PAGE
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### Main Plans Report

St Lukes	11/00538/EXTM	Land north of Eastern Avenue, Southend on Sea (at Fossetts Farm and Southend United FC training ground)	2
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<b>Reference:</b>	<b>11/00538/EXTM</b>
<b>Ward:</b>	<b>St Lukes</b>
<b>Proposal:</b>	<b>Renewal of application 06/01300/FUL Demolish nightclub and football training facilities, erect 22,000 seater football stadium including 114 bedroom hotel, conference floorspace, players hostel, food and drink concessions, bars and other ancillary facilities, erect 67 flats with basement parking, erect retail units (Class A1) totalling 16,400 sq metres of floorspace of which at least 20% shall be restricted to bulky/DIY goods, erect restaurant (Class A3) comprising 279 sq metres of floorspace, erect health club (Class D2) totalling 3205 sq metres of floorspace, lay out parking and cycle spaces and associated landscaping and form vehicular accesses onto Eastern Avenue and Fossetts Farm Link Road</b>
<b>Address:</b>	<b>Land north of Eastern Avenue, Southend on Sea (at Fossetts Farm and Southend United FC training ground)</b>
<b>Applicant:</b>	<b>Southend United Football Club</b>
<b>Agent:</b>	<b>Savills</b>
<b>Consultation Expiry:</b>	<b>26<sup>th</sup> December 2012</b>
<b>Expiry Date:</b>	<b>13<sup>th</sup> September 2011</b>
<b>Case Officer:</b>	<b>Charlotte Galforg</b>
<b>Plan Nos:</b>	HOK-3093-A-SI-P-02-PL-001 Rev 01, HOK-3093-A-SI-P-06-PL-002 Rev 01, HOK-3093-A-SI-E-00-PL-003 Rev 01 , HOK-3093-A-S-P-00-PL-010 Rev 01, HOK-3093-A-S-P-01-PL-011 Rev 01, HOK-3093-A-S-P-01M-PL-012 Rev 01, HOK-3093-A-S-P-02-PL-013 Rev 01, HOK-3093-A-S-P-03-PL-014 Rev 01, HOK-3093-A-S-P-04-PL-015 Rev 01, HOK-3093-A-S-P-05-PL-016 Rev 0, HOK-3093-A-S-P-06-PL-017 Rev 01, HOK-3093-A-S-S-00-PL-018 Rev 01, HOK-3093-A-S-E-00-PL-019 Rev 01, HOK-3093-A-RE-P-01-PL-021 Rev 02; HOK-3093-A-RE-P-02-PL-022 Rev 01; HOK-3093-A-RE-E-00-PL-023 Rev 01; HOK-3093-A-RE-S-00-PL-024 Rev 01; HOK-3093-A-RE-E-00-PL-025 Rev 01; HOK-3093-A-HO-P-00-PL-030 Rev 01; HOK-3093-A-HO-P-00-PL-031 Rev 01; HOK-3093-A-HO-P-00-PL-032 Rev 01; HOK-3093-A-HO-E-00-PL-033 Rev 01; HOK-3093-A-HO-S-00-PL-034 Rev 01, POP – 3093-A-ST-E-00-PL-030 02, POP – 3093-A-ST-E-00-PL-031

	02, POP-3093-A-ST-SE-00-PL-040 002, POP-3093-A-ST-SE-00-PL-041 02, POP-A-XX-GA-01-XXXX-0000 03 L01, POP-A-XX-GA-02-XXXX-0000 02 L02, POP-A-XX-GA-03-XXXX-0000 01, POP-A-XX-GA-04-XXXX-0000 02, L04
<b>Recommendation:</b>	<b>DELEGATE following expiry of the consultation period to GRANT PLANNING PERMISSION subject to completion of a satisfactory S.106 Agreement</b>



# 1 The Proposal

1.1 In 2006 Southend United Football Club (SUFC) made a planning application to carry out development at Land north of Eastern Avenue, Southend on Sea (at Fossetts Farm and Southend United FC training ground). After submission the application was revised to include the following:

- New football stadium with a capacity of up to 22,000 seats;
- Stadium parking for 484 cars (plus 35 for staff/players), 200 bicycles and 97 motorcycles;
- Hotel of 114 bedrooms and associated conference/hospitality facilities;
- Health club (D2) of 3,205m<sup>2</sup> ;
- Player's hostel (contained within stadium);
- 67 residential units, with 101 dedicated car parking spaces, 67 bicycle parking spaces and 10 motor cycle parking spaces;
- Retail redevelopment of 16,400m<sup>2</sup> (20% minimum provision for bulky goods) with 499 parking spaces, 174 cycle parking spaces and 50 motorcycle parking spaces;
- Fast food restaurant of 279m<sup>2</sup> ;
- Associated infrastructure, landscaping and access roads.
- The total application site comprises approximately 22 hectares

1.2 The application was "called in" for a decision by the Secretary of State and was considered at a public inquiry in September 2007. The Secretary of State granted planning permission for the development in June 2008. The application included a S.106 Agreement. The permission was subject to a number of conditions, one which stated:

*"The development hereby permitted shall be begun not later than 3 years beginning with the date of this permission".*

1.3 Concurrently an application relating to land within the administrative area of Rochford District Council was granted planning permission by the Secretary of State. The application was for lower intensity uses: four new training pitches, one of which would be all weather and floodlit, overflow parking (454 spaces) for the football stadium, a surface water attenuation pond and associated infrastructure landscaping and access roads.

1.4 Since planning permission was granted for application SOS/06/1300/FUL the applicant has sought to vary the S.106 agreement in a number of ways. These changes are discussed below.

1.5 In March 2010, variations were agreed in relation to the timing and the triggers for S.106 payments in association with the development.

1.6 In February 2011, further variations were agreed in relation to the phasing of the development, to allow the following:

- Key milestones in the agreement (including the opening of the retail units) be linked to the prior completion of the north, south and east stands and the provision of 13,942 seats in the new stadium. (It should be noted that this number was subsequently amended to allow a minimum of 13663 seats and a maximum of 14221.)
- Prior to commencement of development, the applicant is required to submit plans to illustrate how the three sided stadium will be finished and details of noise protection measures to be submitted to the Council for approval and for the approved works to be completed before the first football match is played at the new stadium.
- To vary the S.106 Agreement to delete the Bank as signatory and to require completion of a further duplicate agreement, with the Bank as signatory if it still holds a charge over the land at that date, prior to commencement of development on site.
- Applicant to covenant to use reasonable endeavours to complete the west stand within 60 months of commencement of the north, south and east stands.
- Payment of monitoring fees for S.106 agreement implementation and the Travel Plans associated with the documents.

1.7 In May 2011, further amendment was agreed to the S.106 agreement to allow :

*“Key milestones in the agreement (including the opening of the retail units) be linked to the prior completion of the north, south and east stands and the provision of a minimum of 13663 and a maximum of 14221 seats in the new stadium at Fossetts Farm. Subject to other heads of terms and conditions which have been previously agreed.”*

1.8 **It should be noted that the applicant has not yet progressed any of these changes and the S.106 Agreement has not been formally amended to reflect the Committee resolution, therefore the approved details of the S.106 remain as approved in June 2008.**

1.9 The current application seeks to extend the time limit in which the application can be implemented. This “extension of time” application was originally considered by Members at a special Development Control Committee on 31<sup>st</sup> January 2012, where it was resolved to grant planning permission subject to completion of a S.106 Agreement. The S.106 Agreement was never completed by the applicant, therefore, planning permission was not issued.

1.10 The applicant is now seeking to amend the “extension of time” application that was considered on 31st January 2012.

1.11 A phasing amendment is sought to enable completion of the fourth (west) stand after the rest of the stadium. The applicant has stated that this is required in order to aid the deliverability of the stadium and overall development. The proposed phasing details and the latest dates the applicant has given for the development to take place are now as follows:

Phase 1A (edged blue) – 14,000 Seat stadium north, south and east stands

Phase 1B (edged blue) – 8,000 Seat west stand and hotel

Phase 2 (edged red) – Retail and Leisure

Phase 3 (edged green) – Residential

1.12 The applicant has stated that the approximate timescales for the Phasing of the stadium are as follows:

Phase 1A – completed 12 months after start date

Phase 1B – work will commence 6 months into construction of Phase 1A and take 18 months to complete

The applicant has confirmed that there will no longer be a lag of up to 5 years between phases as was previously envisaged.

1.13 The west stand as approved includes a significant amount of accommodation as follows: Pitch level: home and away changing and warm up areas, male and female changing areas, gym, pools, medical rooms, referee accommodation, drug testing areas; mezzanine level: storage, staff area, toilets, IT room, and lockers; entrance level: loading bay, plant, laundry, kitchens restaurants, players car park, staff car park, store, club shop, staff canteen, toilets; concourse level: media room, stores, cellars, kitchen, bars, 500 seater restaurant, level 03: Hotel, with associated bedrooms, restaurant, kitchen, bars, hospitality rooms; level 04: plant, stadium control and commentary, boxes, stores, hotel accommodation, directors box, kitchen, office and media accommodation; Level 05: party deck, hotel rooms/boxes, stores, kitchens, “super” boxes.

1.14 The applicant has confirmed that replacement for some of this accommodation will be provided in temporary accommodation which would be provided in tandem with Phase 1A. This is shown on the submitted plans, but no elevations have been submitted. This temporary “portacabin” accommodation would comprise, compound for air source heat units, manager’s office, press office, medical room, directors dining room, home and away dressing rooms, match official changing, drug testing area, ball boys changing, and pitch tunnel. However, this accommodation was not part of the original application and as such would need to be the subject of a separate planning application.

1.15 The additional plans now submitted in support of the proposed phased development illustrate how the stadium would be developed with only 3 sides.

These also show changes to the layout of the accommodation in the stadium and

resulting changes to elevations (mainly in respect of introducing new doors/windows and repositioning door/windows).

1.16 The applicant has also submitted details of how the stadium will be finished before the west stand is constructed. This shows that the end of the seating would be clad with temporary translucent polycarbonate cladding, a blockwork wall would be constructed to the western end of the pitch and netting installed. Pitch lighting would be installed between the pitch and blockwork wall. An acoustic berm (3m) and fence (2m) is shown located to the south and west of the stadium.

1.17 The applicant is also seeking to vary the S.106 agreement as follows:

- In accordance with agreement reached at SBC's Development Control Committee on 25 May 2011 the Section 106 Agreement will be varied to allow a minor contingency either side of 14,000 seats (Phase 1A) as follows: 'provision of a minimum of 13,663 and maximum of 14,221 seats in the north, south and east stands of the stadium'. The remainder will be provided in the west stand within Phase 1B up to a total of 22,000 seats.
- Originally the applicant sought to remove the Town Centre Contribution (TCC) from the S.106 Agreement. During negotiations they have agreed to make a reduced contribution of £2.25m. The applicant proposes that the payments would be phased so that a payment of £1.45m related to Phase 1 and a further £800k be paid on delivery of Phase 2.

1.18 The applicant, in support of his application, has stated that:

*"The factors effecting the Economy are obviously not going to subside overnight and therefore the opportunity to "kick start" this project, through phasing, is the catalyst for delivery.*

*.....the Phasing enables the creation of value which in turn facilitates the "Step by Step" approach. This allows the Club and Sainsbury to remain within the parameters of their financial forecast and contribute to the continuing regeneration of the High Street in the process.*

*Whilst our cause is predicated upon providing choice and people "shopping in Southend" rather than migrating to competing towns, we also recognise the synergy of improving the High Street. Therefore in addition to the proposed Town Centre Contribution relating to phase 1 of £1.45m we propose upon delivery of the Phase 2 Development, West Stand, Hotel etc...we could pay a further sum of £800k. This is represented by the pro rata quantum of commercial development envisaged...a total Town Centre Contribution of £2.25m.*

*I trust this brief holistic explanation of the key financial implications that interact with the planning merits will help Members come to a balanced and hopefully*

*more informed decision”*

- 1.19 The applicant has previously submitted a request for a Screening Opinion in relation to the application for Extension of time (11/00479/RSE) and the Council concluded that in this instance a new Environmental Impact Assessment was not required, but that the relevant matters could be addressed by the submission of an addenda to the Environmental Statement submitted in association with application 06/01300/FUL.
- 1.20 It should be noted that the applicant seeks to extend the period for planning permission to 5 years as opposed to the normal period of 3 years. They state that “as the provisions for extensions to time limits can only be used once, given the current economic factors five years for implementation would be appropriate”. Members agreed in January 2012 that this was not acceptable and to limit any permission at that time to 3 years.
- 1.21 In support of his application the applicant has submitted covering letters setting out the position, together with an addendum to the 2007/8 EA including an updated Retail Impact Assessment (RIA). A revised Traffic Assessment has also been submitted. In support of the request to make amendments to the phasing arrangement and to the S.106, further information has subsequently been submitted in the form of: revised plans, planning statement, noise impact assessment, retail impact assessment (RIA), phasing plans. The applicant has stated that the retail/hotel/housing development remains “enabling” development.
- “Sainsbury’s is funding all of the first phase (three sides) of the stadium. This money will be repaid to Sainsbury’s and therefore the enabling case remains unchanged. In essence this a ‘Bridge’ from Sainsbury.”*
- 1.22 The Retail Impact Assessment places great emphasis on a Committee report that was considered by Members on 31st January 2012. This report was in respect of the renewal of the 2006 application (06/01300/FUL) and also dealt with some matters relating to the S.106 dealing with highways matters. At that time the applicant advised that the development was to open in 2013 and this was given some weight in informing the view arrived at at the time. Notwithstanding this fact since the report was published a considerable period of time has elapsed and the current economic and trading environment for business has changed. The NPPF has also been published since the Committee considered the question of renewal in January. Government Guidance on renewing application advises that in considering an application for renewal every change in circumstance should be taken into account including any new guidance. In the circumstances officers have advised the applicant that matters need to be considered afresh and tested against current government guidance. The applicant has therefore, been asked to update the supporting information provided with the application including the Retail Impact Assessment (RIA). This updated information has been independently considered by a retail consultant acting on behalf of the Council.



- 1.23 It should be noted that the applicant is seeking a decision on this application prior to December 31<sup>st</sup>, in order to:

*“...enable Sainsbury to maintain their commitment to provide their Option with Prospects College which expires on the 31<sup>st</sup> December.’*

In light of the fact that the additional information has only recently been submitted, this has given officers very limited time in which to assess the proposals, to engage consultants and for those consultants to respond to the newly updated information.

## **2.0 Site and Surroundings**

- 2.1 The site within Southend Borough Council’s administrative area is configured as an irregular inverted ‘L’ shape, with tongues of land extending to the west and the south where the site boundaries abut Sutton Road (B1015) and Eastern Avenue (A1159) respectively. The southern area is currently Southend United FC’s training ground, called “Boots and Laces”, containing a single storey building, an all weather pitch, car parking and grass pitches. The eastern boundary of the training ground is a well established line of trees and shrubs, the western boundary, towards an adjacent recreation ground, is defined by more open fencing.
- 2.2 To the north of the training ground but still within the Borough of Southend, the site takes in open land that is not currently in use for agriculture but was formerly part of Fossetts Farm. The land falls gently and steadily northwards from Eastern Avenue and is some 13 to 14m lower at the borough boundary. An overhead electricity transmission line, with pylons, and a high pressure sewer cross the middle of the site, running from southwest to northeast.
- 2.3 The Clements Way link road and its connection to the road system serving more recent development within the Fossetts Farm area lies to the north and east of the application site. Within the recently developed retail estate lies the B&Q store, and various retail warehouses to the south of it.
- 2.4 To the east of the site for the proposed stadium lies a Scheduled Ancient Monument (SAM) which is known as Prittlewell Camp. It is the remains of a late Bronze Age or early Iron Age hill fort and consists primarily of a circular earth mound. To the south of the SAM and adjacent to the Boots and Laces training ground, is a Waitrose supermarket.

## **3 Planning Considerations**

- 3.1 Circular 08/2005 Guidance on Changes to the Development Control System, provides some useful advice in assessing applications to extend the time limit of applications. It advises that an application to renew an existing planning

permission should be refused only where:

- a) *there has been a material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application);*
- b) *continued failure to commence the development would contribute unacceptably to uncertainty about the future pattern of development in the area;*
- c) *the application is premature because the permission still has a reasonable time to run”.*

3.2 Since permission was granted for the development in June 2008, there have been a number of material changes in circumstances. These being changes to the following documents:

- SPD1 Design and Townscape Guide – revised 2009
- SPD2 Planning Obligations – published November 2010
- The Southend Council Retail and Town Centre Study was published in 2011

3.4 The Community Infrastructure Levy Regulations 2010 came into force on 6 April 2010.

3.5 Since Development Control Committee on 31st January 2012 PPGs and PPSs have been replaced by the National Planning Policy Framework, published in March 2012. However, it should be noted that the “Planning for Town Centre: Practice Guide” remains an extant document.

3.6 **Paragraph 14 of the NPPF states:**

*‘At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking’.*

3.7 Paragraphs 18 to 22 contain policies to encourage and promote building a strong, competitive economy. Paragraph 19 states that planning policies and decisions should make efficient use of land and promote mixed use developments that create more vibrant places.

3.8 Paragraphs 23 to 27 of the NPPF relate to the importance of ensuring the vitality of town centres

3.9 When considering the original application the Secretary of State judged that the issues to be taken into account were::

- The extent to which the proposed development is in accordance with the development plan for the area,
- Whether the design principles adopted in any development plan documents in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, are appropriate in their context and take the opportunities available for improving the character and quality of the area and the way it functions, having regard to the advice in paragraphs 33 to 39 of PPS1.<sup>1</sup>
- The extent to which the proposed development accords with Government planning policy advice in Planning Policy Statement 6: Planning for Town Centres<sup>2</sup>, in particular:
  - whether need has been adequately demonstrated:
    - in terms of quantitative need for additional floorspace for the proposed class of goods or services; and
    - whether there are any qualitative considerations;
    - whether it has been demonstrated that a sequential approach has been applied in selecting the location for the proposed development, and specifically, whether:
      - the applicant has demonstrated flexibility in terms of the format, design and scale of the proposal, the amount of car parking, and the scope for disaggregation;
      - any sequentially-preferable alternative sites are available, suitable and viable;
      - whether the scale of the proposal is related to the role and function of the centre and its catchment;
      - the degree to which the proposal would have an impact on existing centres;
      - the degree to which the proposal would be accessible by a choice of means of transport, and specifically whether:
        - the proposal would have an impact on the overall distance travelled by car;
        - the proposal would have an effect on local traffic levels and congestion, after public transport and traffic management measures have been secured;
        - the degree to which other considerations, such as physical regeneration, employment, economic growth and social inclusion, are material to this application;
        - the extent to which the proposed development would secure a high quality of design

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<sup>1</sup> PPS1 has been superseded by the NPPF

<sup>2</sup> PPS6 has been superseded by the NPPF

- The extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note 13<sup>3</sup>: Transport, in particular the need to locate development in a way which helps to: promote more sustainable transport choices, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car; car parking provision
- The extent to which the proposed development is consistent with the Key Principles in paragraph 1 of PPS7<sup>4</sup>, and to which it complies with the policies to:
  - support tourism and leisure enterprises and facilities that bring economic, community and social benefits and that utilise and enrich, but do not harm, the countryside
- The extent to which the proposed development is consistent with Government planning for housing policy objectives in Planning Policy Statement 3<sup>5</sup> (PPS3) Housing.
- The extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 9: Nature Conservation<sup>6</sup> - with particular regard to: impact on the local flora and fauna, and protected species.
- The extent to which the proposed development is consistent with advice in Planning Policy Guidance Note 16: Archaeology and Planning.
- The extent to which the proposed development is consistent with advice in Planning Policy Guidance Note 17: Planning for Open Space, Sport and Recreation.
- The extent to which the proposal complies with PPS25 on Development and Flood Risk.

## 4 Appraisal

4.1 *Appraisal of this application will follow the format of the Secretary of State's consideration of the application.*

### **Accordance with the Delivery Plan for the area**

4.2 This is covered in detail under the other sections of the report.

<sup>3</sup> PPG13 has been superseded by the NPPF

<sup>4</sup> PPS7 has been superseded by the NPPF

<sup>5</sup> PPS3 has been superseded by the NPPF

<sup>6</sup> PPS9 has been superseded by the NPPF

## Design Principles

**Planning Policy: NPPF: Achieving Sustainable Development, Core Planning Principles, Sections 7 and 12; East of England Plan policies SS1, ENV7; ETG4: DPD1 (Core Strategy) policies, KP1, KP2, KP3, CP4, CP7; BLP policies; C8, C11, C13, C14, C15, H5, H7. SPD1 Design and Townscape Guide.**

4.3 The Inquiry Inspector considered that the stadium is of high design quality and despite his criticisms of the retail element of the development and associated car parking areas he concluded:

*“The new stadium will provide the site with a high quality development which will create a local identity, and on match days at least, a vibrant atmosphere. The mix of uses, including retail, housing and the hotel will by providing activity on non-match days contribute to a sense of place”.*

4.4 Prior to the application being considered at public inquiry, the applicant varied the application proposals in several ways, reducing the number of flats and the scale, bulk and mass of the buildings, giving the apartments a greater level of amenity space, ground floor access to all the buildings and adequate parking and cycle parking.

4.5 There were also design changes to the retail element as follows: in the revised scheme retail floorspace was been reduced from 22,855m<sup>2</sup> to 16,400<sup>2</sup>m. Two retail units were removed from the southern end of the retail development. This is the area closest to Eastern Avenue and at the entrance to the site. Car parking was reduced to 499 from 590 spaces with increased cycle parking up from 100 spaces to 174 spaces and provision for 50 motorcycle spaces. These reductions in floorspace and car parking enabled the following substantial design gains:

- A new design solution to the termination of the retail parade to tie the design concept into the Club’s shrimp motif and provide a ‘tail’ effect;
- More extensive landscape areas, planting and boundary treatments, including enhanced biodiversity;
- Improved connectivity with neighbouring land uses, public footpaths and highways particularly at the Eastern Avenue entrance;
- Enhanced opportunities for public art within a sculpture park/public open spaces around the Stadium and Eastern Avenue entrances.

4.6 A core planning principle set out in Paragraph 17 of the NPPF is to seek to secure high quality design and good standards of amenity for existing and future occupants. Paragraph 17 also states that planning should proactively drive and support sustainable economic development to deliver homes business and industrial units, infrastructure and thriving local places that the country needs.

4.7 The NPPF also states at paragraph 56:

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*

4.8 The Inspector in his report stated: *“The Stadium, which will be the largest component of the built development, is of high design quality. The design is from one of the leading UK designers of sporting venues and reflects advances in stadium design that have been achieved in recent years...”*

4.9 *....The layout of the retail development is heavily constrained by the shape of the site which dictates a strongly linear pattern of development. Changes at the southern end have created scope for an appropriate design of the entrance to the site and for the provision of suitable pedestrian links to the adjacent Waitrose store and in both respects design criticisms in the January 2007 Committee Report have been resolved. However, the line of large format retail stores with extensive areas of car parking, no matter how good the landscaping, will do little to create much in the sense of civic space.*

4.10 *On the other hand on match days the south eastern corner of the stadium, designated as “the HUB” would in my view achieve the aim described in PPS1 of creating an integrated space and a sense of place*

4.11 *The new stadium will provide the site with a high quality development which will create a local identity, and on match days at least, a vibrant atmosphere. The mix of uses, including retail, housing and the hotel will by providing activity on non-match days contribute to a sense of place.”*

4.12 Thus it can be seen that the Inspector viewed the development very much as a whole entity and identified the benefits of the development as being in its entirety rather than partial elements.

4.13 When the application was originally submitted, the supporting evidence included a phasing timetable as follows:

**2006**

<i>Element</i>	<i>Phase</i>	<i>Start</i>	<i>Complete</i>
Stadium	shell	March 2007	<b>June 2008</b>
	Fit out	Included	Included
Hotel	shell	March 2007	June 2008
	Fit out	June 2008	<b>December 2008</b>
Residential	shell	March 2007	June 2008
	Fit out	June 2008	<b>November 2008</b>
Retail	shell	March 2007	March 2008
	Fit out	April 2008	<b>June 2008</b>

4.14 Whilst it is recognised that this phasing timetable is now well out of date and was not achieved, it gives an illustration of the development that the Inspector was considering at appeal. It is evident that the proposals that the Inspector considered envisaged a maximum of 6 months between completion of all the elements of the development, and that the development would therefore, be viewed and operated as a whole entity.

4.15 The applicant are now seeking to vary the S.106 Agreement for Fossetts Farm to allow for the new stadium to be constructed in two phases “to aid the deliverability of the stadium and overall development”. The applicant has stated that this phasing would be as follows:

- 4.16
- Phase 1A – 14,000 Seat stadium north, south and east stands
  - Phase 1B – 8,000 Seat west stand and hotel
  - Phase 2 – Retail and Leisure
  - Phase 3 – Residential

4.17 The applicant has stated that the intended timescales for works are as follows:

<i>Element</i>	<i>Start</i>	<i>Complete</i>
Stadium (Phase 1A)	Spring 2013	12 months (spring 2014)
West Stand and Hotel (Phase 1B )	Autumn 2013	18 months (spring 2015)
Residential (Phase 3)	After completion of Phase 2	2 years (spring 2017)
Retail (Phase 2)	Autumn 2013	18 months (Spring 2015)

4.18 Thus it can be seen that the anticipated timeline for completion of the development is significantly greater than that which was assessed by the inspector at the Inquiry.

4.19 The applicant has stated that:

*“the opportunity to “kick start” this project, through phasing, is the catalyst for delivery. I say above that the Phasing enables the creation of value which in turn facilitates the “Step by Step” approach. This allows the Club and Sainsbury to remain within the parameters of their financial forecast and contribute to the continuing regeneration of the High Street in the process”.*

4.20 Whilst the applicant has stated that ultimately it is the intention that the total stadium development will be completed as approved, the proposed phasing would result in a partially completed development for a period of time. Given the weight that the Inspector gave to the design of the development and the benefits

of the combined development (as opposed to any single element of it) it is considered vital that these phasing arrangements are adhered to and that no one single element of the scheme is developed in isolation. It is considered that the detailing of phasing should form part of the S.106 Agreement. This is considered necessary in order to prevent uncertainty and to ensure that the proposals remain acceptable in (*inter alia*) visual, highway, retail, and noise terms to retains its “vitality of uses” and furthermore to allow the Council to reserve its position should there be any change in circumstances arising from the prevailing economic climate including the retail trading environment.

- 4.21 With regard to the changes to the West stand, the applicant has now submitted detailed plans as to how this would be carried out (these were not submitted previously) the plans show the West stand as completely removed. An acoustic “berm” (earthen wall) and fence would be erected close to the western edge of the pitch where the West Stand was originally proposed.
- 4.22 The West stand previously contained the following accommodation; pitch level: home and away changing and warm up areas, male and female changing areas, gym, pools, medical rooms, referee accommodation, drug testing areas; mezzanine level: storage, staff area, toilets, IT room, and lockers; entrance level: loading bay, plant, laundry, kitchens restaurants, players car park, staff car park, store, club shop, staff canteen, toilets; concourse level: media room, stores, cellars, kitchen, bars, 500 seater restaurant, level 03: Hotel, with associated bedrooms, restaurant, kitchen, bars, hospitality rooms; level 04: plant, stadium control and commentary, boxes, stores , hotel accommodation, directors box, kitchen, office and media accommodation; Level 05: party deck, hotel rooms/boxes, stores, kitchens, super boxes.
- 4.23 It is proposed that some of these uses would be re housed in portacabins to the north of the stadium. Plans but no elevations of these elements have been submitted. They do not form part of the original application and therefore do not fall to be considered at this juncture. A separate planning permission would be required in order to carry out this development. A condition and informative are required to this effect.
- 4.24 With regards to the temporary finish to the west end of the stadium between completion of the main stadium and completion of the West Stand. The plans show that the end of the stands would be clad with translucent polycarbonate cladding, with blockwork below; temporary netting and a wall would be installed to the west of the proposed floodlighting, and it is proposed to install replay screens upon this netting/wall. Replay screens were not previously part of the application and no information has been submitted regarding their impact. It is therefore considered that further information is required and that any such screens should be subject to a condition, including the requirement for submission of a noise assessment.
- 4.25 The Inspector placed significant weight on the high quality design and appearance of the original development and the appearance of this “temporary” finish to the west end of the stadium complex would not be considered to be



acceptable as a semi permanent or permanent design solution.

- 4.26 The removal of the West Stand has also necessitated changes to the layout of the main stadium, which in turn has led to changes to elevations, changing the type and location of fenestration. These changes in themselves, in the overall context of the development are not so significant that they would require a new application. The changes are considered to be acceptable.
- 4.27 With the exception of the changes to the West Stand stadium, and the changes set out above, the design of the stadium development remains the same and that subject to suitable phasing arrangements, there have been no material changes in circumstances which would now lead to a different conclusion than arrived at by the Inspector considering the appeal in 2008. Subject to the issues/S.106 requirements raised in the preceding paragraphs, the design of the development remains acceptable and is considered to comply with the principles set out in the NPPF and Core Strategy Policy CP4.

### **Green Belt**

**Planning Policy: NPPF - Achieving Sustainable Development, Core Planning Principles, Section 9; East of England Plan policies; SS7 DPD1 (Core Strategy) policies, KP1, KP2, CP4, BLP Policies; G1, G1a, G3; G5.**

- 4.28 Paragraphs 79 to 92 of the NPPF set out policies for protecting the Green Belt. Paragraph 79 identifies that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
- 4.29 The Inspector concluded that there are two main issues in relation to the impact of the development on the Green Belt:
- *The proposed development will be visible from the Green Belt within Rochford*
- 4.30 The Inspector considered that: *“the combined development with the Club’s training facilities in the Green Belt and the stadium on adjacent land outside the Green Belt would be particularly suitable in providing a transition between the urban area and the rural area to the north”.*
- 4.31 Provided the development is phased in an appropriate manner, this situation will not change and the impact remains acceptable.
- *At the time of the Inquiry a small part of the application site lay within the Green Belt.*
- 4.32 This allocation was considered by the Inspector to be an anomaly as a result of the plan making process within the area and has been altered within the Core

Strategy Key diagram, where the land lies within and Priority Urban Area, and is shown as an industrial/employment area. Therefore, the Green Belt designation of the small part of the site is no longer relevant.

## Housing

**Planning Policy: NPPF – Achieving Sustainable Development, Core Planning Principles, Section 6; East of England Plan Policies: H1, H2: (Core Strategy) DPD1 policies, KP1, KP2 ,CP8, BLP Policies H5, H7.**

4.33 The Inspector was of the view that:

*“The proposed housing has been designed in a way that responds to the site’s opportunities and constraints in a suitable manner and will make a positive contribution both locally, within the context of development of this site, and to the wider urban area”*

*“It is, however, important to recognise that housing is only a minor component of the mixed use proposals for Fossetts Farm. In comparison with the importance attaching to other arguments for and against the scheme, any issues that arise in relation to the housing element of these proposals are of relatively little significance. If there are reasons for refusing or approving the development on other grounds, then objections to certain aspects of the housing component of the scheme are not of such importance as to warrant refusal, while, conversely, the merits are not such as to weigh heavily in favour of an approval.”*

4.34 Since the Inquiry PPS3 has been superseded by the NPPF, but this does not alter the acceptability of the housing element of the scheme.

4.35 Paragraph 47 identifies the steps which local planning authorities can take to “boost significantly the supply of housing”. Councils still need to be able to demonstrate a five year housing supply, plus an additional allowance of 5%, or 20% where there has been persistent under delivery of housing. Councils should also make provision for years 6-10 and where possible years 11-15.

4.36 Paragraph 50 requires a wide choice of high quality homes with a mix based on current and future demographic trends, market trend and needs of the community.

4.37 It is therefore, considered that the proposals remain in accordance with the NPPF and CP8 and that the proposed housing development remains acceptable. However, it is regrettable that the proposed housing development is not proposed to be built until well after the stadium development, as this will impact upon the vitality of the proposals.

## Retail

**Planning Policy: NPPF – Achieving Sustainable Development; Core Planning Principles; Sections: 1, 2; East of England Plan Policies - SS1,**

**SS2, SS3, SS5, SS6, (Core Strategy) DPD1 policies, KP1, KP2, CP1, CP2; BLP Policies S1, S2, S3.**

- 4.38 The NPPF states that planning permission should be granted for sustainable development unless any adverse impacts significantly and demonstrably outweigh the benefits of the proposals.
- 4.39 Specifically the NPPF states that planning applications for retail development (and other town centre uses) which are not in an existing centre and are not in accordance with an up to date local plan should be assessed against the “sequential test” and “impact” tests.
- 4.40 The “sequential test” requires applications for retail developments to be located in town centres, then in edge of centre locations and only if suitable sites are not available ‘within’ or ‘on the edge of’ should out of centre sites be considered (with preference given to accessible sites that are well connected to the town centre). Applicant and local authorities should demonstrate flexibility on issues such as format and scale.
- 4.41 The NPPF requires Local Planning Authorities (LPA’s), when assessing the retail impact arising from application proposals, to have regard to:
- (a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - (b) the impact of the proposal on the town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.
- 4.42 If a proposal fails to satisfy the sequential test or is likely to lead to a significant adverse impact on one or more of the above factors planning permission should be refused.
- 4.43 With regard to retailing, the Inspector’s views expressed in determining the appeal are relevant. His conclusions were, that weight of concerns over the retail issues were not so great as to outweigh the overall benefits that the proposals bring to Southend in delivering the new stadium development for Southend United FC:

*“..taken simply as a retail proposal, the Fossetts Farm application is for retail development on an out of centre site and is not in line with the overall aim of PPS6 of promoting the vitality and viability of town centres. However, when the particular features of Southend are examined, a case can be made that impact on the town centre would be limited. The crux of the issue then is the relative weight to attach to the role of retail development in enabling the overall benefits of the scheme, particularly in relation to the new stadium for*

*Southend United FC, to be brought forward. The position taken by the elected Councillors of Southend Borough Council is that in this case the attractions of the development taken as a whole are such as to warrant a decision in favour of granting planning permission."*

4.44 The Secretary of State in confirming the Inspector's views stated:

*"The Secretary of State agrees with the Inspector that there is an urgent need for Southend United Football Club to develop a new stadium, this need cannot be met without funding from the retail, residential and hotel development proposed, and the benefits of the scheme would outweigh any policy conflicts. She concludes that Southend United Football Club is important to the local community and the development would have widespread and far reaching regenerative benefits."*

4.45 With regard to the site's location, the Inspector's report confirms that the site is out-of-centre:

*"This is not a town centre site, nor is it an edge of centre site. Questions of how the proposal stands in relation to retail policy in the Development Plan and of whether there would be an adverse impact on Southend's Town Centre are of major significance".*

4.46 In commenting upon the appellant's case, the Inspector's report states:

*"There are two lines of argument put forward by the applicant in support of retail development on this site. The first is that the proposal is acceptable in its own right in terms of local and national policy and from the benefits to Southend flowing from the proposed retail development. The second line of argument is that the scheme is warranted because it would act as enabling development, bringing some benefits in its own right but achieving further benefits at the same time, in particular through securing delivery of the new football stadium and thereby contributing significantly to the well-being of the Club and enabling the Club to contribute to the well-being of the locality"*

4.47 The Inspector also highlighted that the retail development would provide around £40m to be spent on the stadium construction and without this funding the prospects for constructing the stadium would be 'very slim indeed'.

4.48 The applicant state that the retail/hotel/housing development remains "enabling development" although no financial details have been submitted in support of this. They state:

*“Sainsbury’s is funding all of the first phase (three sides) of the stadium. This money will be repaid to Sainsbury’s and therefore the enabling case remains unchanged. In essence this a ‘Bridge’ from Sainsbury.*

4.49 In dealing with the appellant’s retail case the Inspector’s report states:

*“The simple facts presented by objectors are that this site is not in a town or district centre and neither is it on the edge of a town or district centre. To that extent approval of 16,400m<sup>2</sup> of new, and largely unconstrained, retail floorspace at Fossetts Farm would be in conflict with the key objective established in paragraph 1.3 of PPS6, promoting the vitality and viability of town centres and with the first sentence of paragraph 3.1 of the policy statement: “To deliver the Government’s objective of promoting vital and viable town centres, development should be focused in existing centres in order to strengthen and, where appropriate, regenerate them.” If what was proposed was simply an unconstrained, free-standing, retail proposal, my view would be that approval for such a major out of centre scheme would be demonstrative of a lack of commitment to the town centre and, by materially harming confidence in the future of the town centre, would have a lasting adverse effect on future investment decisions.” [our underlining emphasis]*

4.50 However, in acknowledging the football stadium and mixed use elements of the proposals, the Inspector states:

*“The proposal is however not for a free-standing retail proposal but for a mixed use scheme within which the single most important element is a 22,000 seater stadium to be funded, very significantly, from capital proceeds from the proposed retail development. Development of the retail scheme would be tied through the Section 106 Agreement to construction of the stadium. Whether this is or is not enabling development in the “classic” sense of the term, it takes the retail proposal out of the category of being an unconstrained, free-standing retail proposal. It is a scheme for which a special case can be entertained and a decision to permit such a scheme, on its own merits, would not necessarily have the same lasting effect on confidence in the town centre and on future investment decisions”*

4.51 *“The rest of this analysis relates to the case mounted for the retail development as something that is an integral part of a wider development of Fossetts Farm, with the new stadium at its heart. It takes account of particular circumstances applying in Southend that from the background to the analysis presented by the applicant and the Borough Council, and that collectively may be assessed as reducing any harm to the town centre and the longer term strategy being promoted for its future enhancement”. [our underlining emphasis]*

4.52 In terms of the sequential approach and the ability of alternative in centre and edge of centre sites to accommodate the proposals, the Inspector was persuaded that the appeal proposal was capable of being brought forward at an early date whereas the St John's Quarter, the only site with a real prospect of achieving substantial retail development in the town centre was at the time a longer term option. In any event, it was concluded that given the different delivery timescales, there would be sufficient expenditure capacity to support both Fossetts Farm and the St John's Quarter, he stated:

*" ..if additional floorspace is to be provided to meet the current identified quantitative and qualitative need in Southend, then there is a strong argument that to limit the impact on the prospects for future investment in the town centre, that development should proceed at an early date. The application site is uniquely placed to provide a substantial improvement of the retail offer within the Borough of Southend at an early date. At the same time there is a real prospect of putting in motion a sequence of events (the domino effect) that would impact positively on the town centre."*

4.53 It is considered below whether the circumstances that prevailed at the time of the original consent are materially different now. However, clearly the stadium development did not come forward within the timescale that was presented to the Inspector at the time of the Inquiry

4.54. The Southend Core Strategy was adopted in December 2007 and sets out the key priorities for the Borough until 2021. Policy CP2 states that Southend Town Centre will remain the first preference for all forms of retail development and for other town centre uses attracting large numbers of people, as set out in relevant national planning policy, the East of England Plan and local strategies and plans. This spatial strategy is supported by Policy KP1.

4.55 To bring forward these priorities, the Borough Council have prepared the Southend Central Area Action Plan (SCAAP) which is at proposed submission stage and is anticipated to be adopted in early 2014.

4.56 Policy DS1: New and enhanced shopping facilities requires retail development proposals to be focused within the town centre primary shopping area in order to maintain and enhance Southend's role and sub-regional shopping centre status. DS1 and site specific policies for retailing include:

- provision for retail development (comparison shopping floorspace) on Tylers Avenue (proposal site PS7a) to enhance/extend the south eastern retail circuit with the Royals and High Street at its heart;
- maintain/enhance levels of retail provision within a northern retail circuits with the Victoria's and High Street at its heart;
- landmark retail facilities as part of mixed use development on Tylers Car Park(PS7a)
- new mixed development at Clarence Road car park (PS6a) and Alexandra

Street car park (PS6b) provided that they deliver new niche retail, café, restaurant uses.

- new mixed use development at Seaway Car Park and Marine Parade (CS6b) to create a stronger relationship between the Seafront and the Town Centre in particular to the expanded retail circuit in the Tylers area.
- promotion of a new large foodstore development on proposal site PS10a (former B+Q site)

4.57 The SCAAP demonstrates that the work put in motion by Renaissance Southend to bring forward the St John's Quarter (which includes Tylers Avenue, Tylers Car Park and Seaway Car Park) has been progressed through specific policies, most notably DP7, PS7a and CS6b.

4.58 With the exception of the SCAAP, the components of the Development Plan predate the National Planning Policy Framework (NPPF), published in March 2012. The NPPF includes the presumption in favour of sustainable economic development and emphasises that planning permission should be granted for sustainable development unless any adverse impacts significantly and demonstrably outweigh the benefits of the proposals.

4.59 Specifically the NPPF states that planning applications for retail development (and other town centre uses) which are not in an existing centre and are not in accordance with an up to date local plan should be assessed against the "sequential test" and "impact" tests.

4.60 The "sequential test" requires applications for retail developments to be located in town centres, then in edge of centre locations and only if suitable sites are not available 'within' or 'on the edge of' should out of centre sites be considered (with preference given to accessible sites that are well connected to the town centre). Applicants and local authorities should demonstrate flexibility on issues such as format and scale.

4.61 The NPPF requires LPAs, when assessing the retail impact arising from application proposals, to have regard to:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on the town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

If a proposal fails to satisfy the sequential test or is likely to lead to a significant adverse impact on one or more of the above factors planning permission should

be refused.

4.62 Following the current proposals to amend the extension of time application that was considered at Development Committee in January 2012, a revised Retail Impact Assessment (RIA) was recently been submitted by the applicant, in order to support the view that a reduced "Town Centre Contribution" is acceptable.

4.63 The findings of the applicants RIA are summarised as follows:

*"The assessment has demonstrated that there are no sites in sequentially preferable locations that can accommodate the proposed development. As part of the original assessment, it was agreed that the St Johns Quarter was the only site that offered any potential to accommodate the proposed retail floorspace and this remains the case. The assessment undertaken as part of this application has demonstrated that the St Johns Quarter remains unavailable to accommodate the proposed retail floorspace in a reasonable time frame, particularly in light of the identified need for the floorspace."*

*"The assessment has also demonstrated that the proposed development will not result in an unacceptable impact on Southend or any other defined centre. The proposal is estimated to result in a minor level of trade diversion from Southend town centre (£17.5m at 2015 or 3.8%). This is not considered to have any material effect on the overall trading level of the town centre or its vitality and viability."*

*"The 2011 Retail Study demonstrates that, even after the turnover of the floorspace at Fossetts Farm and other commitments has been taken into account, there is surplus capacity to support 32,126 sq. m of floorspace at 2015, rising to 56,287 sq. m by 2020. This significant level of capacity will ensure that there is scope for the town centre to enhance its retail provision in accordance with the Council's aspirations and objectives for retail lead redevelopment and regeneration."*

*In light of the assessment undertaken as part of this Statement, we reiterate the conclusions of the original assessment approved as part of the 2008 Permission and the Retail Impact Assessment of June 2011, that:*

- a) The application site is the most sequentially preferable to accommodate the proposed retail floorspace; and*
- b) The proposed retail floorspace will not have an unacceptable impact on the overall vitality and viability of Southend town centre.*

*"We conclude therefore that the proposed floorspace accords with the relevant retail policies contained within the development plan and in the NPPF".*

4.64 The applicant contends that the TCC is no longer required, however, they have subsequently offered a phased contribution of £2.25m. The case is based on several factors, one of which is that at the Inquiry the Council confirmed that:



*“Whilst the town centre contribution was offered by the applicant, it was not requested by the Council. The Council could not request such a contribution as it had acknowledged that there would be no harm to the town centre.”*

4.65 Another factor proffered by the applicant in support of their case is:

*“The 2012 RIA submitted with this update demonstrates that the proposed retail floorspace will not have an unacceptable impact on the overall vitality and viability of the town centre and therefore accords with the relevant local and national planning policies. Accordingly the test contained in CIL Regulations (122(2)) is not met, in particular that the obligation is not necessary to make the development acceptable in planning terms. There is therefore no justification for the contribution.”*

4.66 The issue of the TCC and the CIL Regulations is addressed in detail in paragraph 4.143 below.

4.67 As stated above, the submitted RIA places great emphasis on a Committee report that was considered by Members on 31st January 2012. At that time the applicant advised that the development was to open in 2013 and this was given some weight in informing the view arrived at the time. Notwithstanding this fact since the report was published a considerable period of time has elapsed and the current economic and trading environment for business has changed. The NPPF has also been published since the Committee considered the question of renewal in January. Government Guidance on renewing application advises that in considering an application for renewal every change in circumstance should be taken into account including any new guidance. In the circumstances officers have advised the applicant that matters need to be considered afresh and tested against current government guidance.

4.68 Because of the compressed timeframe requested by the applicant for a decision, the Council’s consultant (GL Hearn) has had very limited time in which to consider the revised RIA submitted by the applicant and have as a result not been able to carry out their own primary research or visited Southend town centre. The consultant has examined the current situation in the town centre and carried out a critique of the applicant’s RIA. It should be noted that there is some disagreement between the applicant and Council’s consultants with regard to the impact of the development. However, given the limited timescale available to assess the submitted information because of the applicants desire to achieve a decision on the application by 31st December, it has not been possible to resolve these matters. However, notwithstanding the applicant’s views on this matter, officers are content with GL Hearn’s findings.

4.69 A number of significant points are raised in their response.

- The trend in *increasing* vacancy rates within the Town Centre (20.4%), noted by the CBRE Retail study is significantly in excess of the then

national average. The Town Centre recently had a vacancy level of 16.4%, compared to a national average of 11.6%.

- They question the accuracy of vacancy rates stated by the applicant and consider they are actually higher.
- They state that in environmental and shopper perception terms, there is no evidence to suggest that the previously identified deficiencies of poor quality pedestrian realm, particularly in the secondary shopping areas, and the lack of natural retail circuit have been addressed.

4.70 In their critique of the applicant's RIA, the Council's consultants make the following comments and conclusions:

*"Having reviewed the planning history and policy background to the proposal and considered the technical aspects of the RIA provided in support of the application, we consider that the retail proposals will have **negative** impact upon the town centre. The desk based nature of our critique and the limited time available to fully explore and update retail expenditure and turnover analysis means that we cannot conclude whether the impact upon Southend town centre would be significantly adverse (Council emphasis)*

*The negative retail impacts are however, only one aspect of the overall proposals albeit a significant element. The Council will need to balance the negative retail effects with the wider positive and negative impacts of the development, particularly the delivery of a new football stadium for Southend United FC.*

*The Secretary of State in deciding the original application did however, give a clear indication that the **overall** benefits of the scheme would outweigh any policy conflicts. (Council emphasis)."*

4.71 How do the SUFC proposals fit into the overall policy framework the LDF and NPPF?

4.72 The Council's consultants consider that *"If the proposals were to be considered as solely a retail development, the proposals out of centre location and its non-conformity with the development plan would require a thorough and rigorous retail assessment to address the requirements of the NPPF.*

*Our critique has highlighted that the Retail Impact Assessment submitted in support of the application is deficient in a number of respects and does not provide a robust basis upon which the retail effects of the proposal upon Southend town centre can be fully understood."*

How will they impact upon the Town Centre?

- 4.73 The Council's consultants consider that ***"The proposals will impact negatively upon retailing in Southend town centre. However, the scope of our instruction and the level of detail provided by the applicant in their retail impact assessment do not enable a robust assessment of the likely negative impacts to be made. What is clear is that the retail impacts have been understated by the Applicant. Whether those impacts are at a level which would be considered significantly adverse cannot be determined on the basis of the information provided by Savills in their RIA and currently available to us."***

Do they meet the sequential test?

- 4.74 The Council's consultants consider that: *"Where these proposals to be a stand-alone retail scheme, we consider that the St John's Quarter/ Southend Central Area Action Plan retail sites within the town centre are of size capable of accommodating the proposal and should therefore be given sequential preference.*

*We acknowledge that there are issues to address in bringing the St John's area forward for development, not least the timescale. However, the Practice Guidance is clear that central area sites are often complex to bring forward and as such longer timescales should be allowed for them to come to fruition.*

*However, the planning history of the Fossetts Farm proposals, in particular the Secretary of State's position that the overall development is linked to the delivery of the football stadium effectively makes sequential considerations irrelevant for the wider mixed use development.*

*Considered in isolation, we do consider that the proposals are contrary to policy. However, the wider mixed use proposals and the benefits they provide may in the Councils view be of sufficient benefit when balanced against the negative retail effects to overcome any retail policy infringement."*

If the proposals are broadly acceptable what draft conditions/S.106 provisions are appropriate?

- 4.75 The Council's consultants state: *"Controls are in place to require that at least 4,100sqm gross (or 20% of total gross floorspace) is used for the sale of DIY, home improvement goods, electrical and gas goods, garden materials and goods, furniture/soft furnishings and floor coverings and automotive and cycle products only (Condition 6).*

*The remainder of the retail floorspace is unrestricted and can be used for either convenience or comparison goods retailing. It is noted that the capacity and impact work provided by Savills in their supporting Retail Impact Assessment has*

*only considered comparison goods. There has not been sufficient time to consider it as part of this critique but the Council may wish to consider controlling the sale of convenience goods.*

*The applicant is seeking a five year permission; we have some concerns over the timing of delivery of this development and the potential for overlap with the St John's Quarter development within the town centre. It may therefore be appropriate to impose a shorter time period.*

*With regard to the S.106 provisions, the applicant is seeking to remove the payment toward 'Town Centre Regeneration' on the basis that there is no justification for the contribution<sup>7</sup>. However, the retail analysis we have provided does highlight that there are different circumstances prevailing now, compared to when the application was originally determined and whilst we have not been able under the scope of this instruction to come to a clear conclusion on impact, we do consider that the impact of the retail proposals on Southend town centre will be greater than predicted in the supporting Retail Impact Assessment and that the Town Centre Contribution would have helped considerably to bring forward public investment in the town centre."*

- 4.76 To conclude, Officers are clearly of the view that there is a significant impact on the town centre as a result of the proposals. This impact is considered to have increased since the Secretary of State's appeal decision and since the application was initially considered by Members in January. The health of the Town Centre appears to be declining at a rate greater than the national average and has more empty units than the national average. Officers have been in discussion with the applicant about measures to mitigate the impact which could help maintain the importance of the town centre as a retail destination. Officers also considered the likely costs of such measures and these formed the basis of discussion. Officers are of the view that all the measures are necessary to mitigate against the impact of the development upon the town centre.
- 4.77 Officers have produced a table of projects (together with their costs) that would enhance the town centre and help increase its attractiveness to businesses and visitors alike. The works include *inter alia*: Highways improvements, highways schemes (The Victorias and City Beach Phase 2), Town Centre project enhancements, signage schemes, parking and transport schemes, improvements to public transport, walking and cycling enhancement schemes, town centre environmental enhancement, safety and security, provision of WiFi, public art, proposals to encourage inward investment.
- 4.78 The total costs of the schemes are **£21,042,500**. Individual projects vary from £8k for improvements to signage, to £7m for Phase 2 of City Beach highways improvements. The £21m sum indicates that, to support and mitigate the effects on the town centre, a contribution is justifiable.

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<sup>7</sup> See Savills Planning Statement, Amendments to the S.106, paragraphs 2.12 to 2.17, page 5.  
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- 4.79 The original Town Centre Contribution that was offered by the applicant was £6m. The applicant is currently willing to make an overall contribution of £2.25m. The applicant has stated that due to economic circumstances (reduced asset values, continuing downturn and risk adverse funders) it is not possible to offer the £6m TCC that was part of the original S.106 Agreement and has verbally stated that a £6m contribution would make the scheme unviable.
- 4.80 Thus whilst the Fossetts development as a whole is considered to remain acceptable in its broadest terms, whilst the positive impacts for the Borough as a whole are recognised and officers wish to see the development come fruition at the earliest opportunity, it is considered necessary and appropriate that a contribution for works to improve the Town Centre is made as part of the S.106 Agreement in order to help offset the negative impact of the proposed development on the Town Centre.
- 4.81 The judgement that members must make on this matter is whether the phased contribution offered by the applicant although less than that envisaged by officers, is sufficient when weighted in the balance with other factors such as the prospect of a new stadium being constructed and available in the timescale proposed by the applicant (a matter that was given some weight by the Inspector when considering the appeal) and any other benefits arising from the proposal. This judgement needs to be made in the context of other measures and safeguards in the S.106 Agreement to deal with matters such as phasing and milestones to enable a reassessment to be made of the impacts of the proposals at the appropriate juncture to establish whether further mitigation or amelioration is necessary.

### **Sustainable Development in Rural Areas**

**Planning Policy: NPPF – Achieving Sustainable Development, Core Planning Principles, Sections 9 and 11; (Core Strategy) DPD1 policies, KP1, KP2, CP7; BLP Policies: G3, G5.**

- 4.82 The Inspector considered that *“It is a misreading of what is proposed, to regard either application as development in the countryside. The proposals for development of Fossetts Farm are for an entirely urban type of development. They are put forward for a site which since adoption of the Local Plan Second Alteration has been regarded as suitable for urban expansion and which is viewed in the Core Strategy as a Priority Urban Area (PUA).”*
- 4.83 There is no change in circumstances that would alter this view, and the NPPF does not contain policies that would conflict with the view.

### **Nature Conservation**

**Planning Policy: NPPF – Achieving Sustainable Development, Core Planning Principles, Section 11; East of England Plan Policies:ENV2,**

### **ENV3, (Core Strategy) DPD1 policies, KP1, KP2**

- 4.84 Paragraph 118 of the NPPF emphasises the requirement to conserve and enhance biodiversity.
- 4.85 An agreed statement on Biodiversity was submitted at the Inquiry and issues within it were addressed by conditions. In order to assess potential changes since the baseline survey that was undertaken in 2006, a further survey the site was undertaken in May 2011. The surveys lead to the conclusion that although some changes have occurred on site since the 2006 surveys, these changes have not significantly altered the ecological value of the site. There continues to be a constraint arising from the presence of certain protected species on the site and the need for mitigation measures remains relevant.
- 4.86 The survey states that although translocation took place in 2006, there is potential for reptiles to have recolonised the site. Therefore, further translocation is required and then vegetation of the site strimmed to ground level and a reptile fence will be installed to prevent the site being recolonised. Bat surveys will be required and should bats be present, mitigation measures will be necessary. Site clearance will be undertaken outside the bird breeding season. These matters can be adequately addressed by condition.

### **Accessibility and Sustainability and Transport**

**Planning Policy: NPPF – Achieving Sustainable Development, Core Planning Principles, Section 4: East of England Plan Policies: SS1, T2, T3, T4, T9, T14, And (Core Strategy) DPD1 Policies CP3, BLP Policies: T1, T8, T11, T12 T13.**

- 4.87 The NPPF Paragraphs 29 to 41 promote sustainable transport.
- 4.88 The site at Fossetts Farm has been identified as a suitable site for Southend United relocated stadium within both the Borough Local Plan Second Alteration and within the Core Strategy. The Inspector recognised that although the site is not on the edge of the town centre it is on the edge of the urban area and it is well located in relation to where SUFC's home supporters live. It is readily accessible from those areas that will form catchment populations for both the retail park and stadium.
- 4.89 At the time of the Inquiry principle access to the site was by road. The applicant submitted a range of actions to support accessibility. Two key measures were a Travel Plan for the site dealing with day to day issues, and a Transport Management Strategy responding to the requirements of getting to and from the stadium on match days. There was also a commitment to highways works which included footpaths and provision for cycles. The Inspector considered "*such a multi-faceted approach to be a key characteristic of a sustainable response to the transportation issues raised and consider that the Secretary of State should*

*attach much weight to the commitments secured by the Section 106 Agreement as helping to achieve a development that would be accessible and sustainable, in accordance with the aims of both PPG13 and the transport aims of PPS6. I also recognize that for football fans the site is not an unreasonable distance on foot from Prittlewell Station and that this could prove a realistic option for some journeys to the stadium, as it is currently to the Roots Hall ground.”*

4.90 The Inspector also stated that he *“had regard to objectors’ views about road congestion, particularly on match days. It is acknowledged that there are peak hour capacity problems at various of the junctions in the vicinity of the application site, including the Eastern Avenue/Sutton Road junction, and that with general growth in traffic it can be expected that, with a do nothing approach, these would get worse. The approach taken by the applicant is a strategy of mitigating the effects of additional traffic generated from the proposed development at Fossetts Farm. The Section 106 Agreement commits the applicant to full funding of works at various junctions in the vicinity of the application site, notably the Eastern Avenue/Sutton Road junction which would be converted from a roundabout to a signalised junction and to a £1 million pound contribution to improvement of the A1159. An improvement of the Eastern Avenue/Fossetts Way junction to improve access to the Waitrose store is proposed as a Grampian style condition. The junction modifications proposed would increase junction capacities and on non-match days would lead to a general reduction in queue lengths at the key junctions. In such circumstances, I do not consider that refusal of the retail proposals on traffic grounds would be warranted.”*

4.91 The Inspector stated that *I do not consider that parking or traffic issues associated with match days are of such moment that they should in themselves lead to refusal of the current application, especially given the Development Plan’s recognition of Fossetts Farm as a site for a football stadium.*

4.92 Since the application was considered at Public Inquiry there have been a number of changes in circumstances which are considered to impact upon the development and fall to be considered at this time. All these changes potentially impact upon traffic within the area.

- Two major changes have come into effect since the application was submitted namely the Cuckoo Corner junction improvements and the imminent Eastwoodbury Lane diversion.
- Although changes to Priory Crescent were considered at the Public Inquiry in 2007, the scheme considered by the Inspector was substantially different to that which was actually carried out and completed in March 2011
- Permission has been granted for the expansion of the Southend Airport, and a station has been constructed to serve that development. It is projected that the airport will lead to growth in jobs and housing in the area.

- There is also additional housing proposed within the Rochford area at Hall Road.
- At Garons a pool has also been constructed within proximity of the application site

4.93 The Transport Assessment originally submitted by SUFC in support of this application was dated August 2007. Officers considered this to be out of date as the highway situation has subsequently changed. An addendum letter updating the TA was subsequently provided. SUFC also asked to provide current traffic data and traffic modelling analysis using the Council's VISSIM model.

4.94 SUFC subsequently also carried out further traffic surveys, including traffic turning count movements and queue length surveys at a number of junctions. This up to date data has been used to inform the Council's VISSIM mode and a report has been produced setting out the outcomes of the modelling and proposals for mitigation. The findings of the report are discussed below.

4.95 The scheme includes a new link road running between Sutton Road and Fossetts Way providing pedestrian and cycle access to the site. The key pedestrian access route to the Stadium follows the western boundary of the site. Controlled pedestrian facilities are proposed across Eastern Avenue to the site as part of the new signalised access junction.

4.96 Parking is located to the west of the retail units, to the south west of the stadium and to the north and north-west of the stadium. Vehicular access/egress to the stadium and associated parking will be from a new roundabout on the new link road. Access to the retail park will be from Eastern Avenue by way of a new all-movement signal controlled junction with pedestrian facilities. The latest modelling results, which are discussed below, have confirmed that highway works are required at the junctions of Eastern Avenue / Sutton Road and Eastern Avenue / Royal Artillery Way / Hamstel Road.

4.97 Since the original TA was submitted, London Southend Airport Station is now open. As a result, it is considered that the proposals for pedestrian links between the Airport Station and the site should be revisited, especially for match days. The Travel Management Strategy will need to include, prior to commencement, a comprehensive re-assessment of arrival routes and departure routes and times for all travel modes. A requirement for a Travel Management Strategy is included within the S.106 Agreement and this will need to be amended to reflect these concerns.

*Traffic Modelling and Mitigation measures*

4.98 VISSIM transport modelling has been carried out during the Saturday PM peak between 16:30 and 18:00. This time was chosen for the modelling as it offered the highest traffic flows and therefore a robust model. Modelling has been carried out for the matchday scenario for 2013, which the applicant stated at the time of submission, would be the opening year of the development and non-matchday



for 2023 - ten years after the proposed year of opening. Modelling up to 2023 provides a robust future model which adds a 14% growth rate to the traffic flows.

- 4.99 The initial transport modelling results showed that the development would cause a number of junctions to operate over capacity. There were especially poor results at the junctions of Eastern Avenue / Sutton Road, Royal Artillery Way / Hamstel Road / Eastern Avenue and at certain times at Cuckoo Corner roundabout.
- 4.100 It is therefore, recommended that Eastern Avenue / Sutton Road and Eastern Avenue / Royal Artillery Way / Hamstel Road roundabouts are signalised in a similar way to that of Cuckoo Corner roundabout with full pedestrian facilities. Both junctions require physical improvements in order to provide sufficient capacity.
- 4.102 The modelling showed that Cuckoo Corner could be affected during the half hour, between 17:30-18:00. As a result of the football related traffic travelling west, the Priory Crescent approach is much busier and queuing is shown back to Sutton Road roundabout. Therefore, it is recommended that for this period of time on a match-day the Cuckoo Corner signal timings should be changed by taking time from Victoria Avenue and adding time to the Priory Crescent approach and some to the Prince Avenue approach.
- 4.103 The modelling showed that the implementation of a gating strategy as proposed by the applicant for the development car parks will help to improve the operation of the road network on match-days. This will prevent football traffic from exiting when the queue along Sutton Road north reaches a certain distance to be determined by the Council. This also holds all approaches on Eastern Avenue / Sutton Road roundabout. *Without this gating strategy the impact of the development on the highway network would not be acceptable.* It is also expected that SUFC will provide incentives to encourage spectators to delay their departure after the game which will help to reduce the impact. A Travel Management Strategy is required as part of the S.106 agreement which will deal with traffic control measures within the site.
- 4.104 The above mitigating measures have been assessed for the Eastern Avenue corridor and would benefit both the Matchday and Non-Matchday scenarios. The signalisation of the Eastern Avenue / Sutton Road and Royal Artillery Way / Eastern Avenue junctions is predicted to benefit the operation through the control of green times on each approach. The signalisation also enables an additional gating strategy that could be utilised on Matchdays.
- 4.105 The traffic modelling showed that the development would have a detrimental impact at the junction of The Bell. The development results show an increase in delay of approximately 15 seconds per vehicle between 16:30 and 17:00 on a Saturday for the Design Year of 2023. From the modelling evidence and the overall delay that this development has on the junction it is recommended that a 5% contribution towards proposed improvements at The Bell junction is sought. These improvements are currently being designed and costed in more detail by

the Borough Council and this contribution will be required to support the finally approved scheme, subject to other funding being put in place before 2023. The current scheme estimate is £5m.

- 4.106 These amended requirements will be incorporated into a revised S.106 Agreement. The Council's Highways Officers have sought a number of amendments to the S.106 Agreement, where it is appropriate (such as amendment to bus route details) as the changes relate to the changes in circumstances that have occurred since the original permission was granted, these are proposed to be incorporated into the revised agreement. The full requirements of a revised S.106 Agreement are set out in Section 10 below.
- 4.107 Although the proposal is for a phased development, which is different to the proposal the Inspector considered, there remains a very small timescale between the development phases, therefore all of the highways works must be completed before the development is in use. The major highway works that are required for this development to proceed, along with the long lead times for utility works could cause major congestion over a long period of time on the highway network. Therefore, it is not acceptable to have the major highways works and utility works being undertaken over a number of different phases, but instead to undertake the full highways works at the same time to cause minimal delay on the highway network.
- 4.108 Subject to completion of a revised S.106 Agreement incorporating the changes as set out in the preceding paragraphs, the development is considered to remain acceptable in highways terms and is considered to comply with the principles set out in the NPPF, Core Strategy Policy CP3 and CIL Regulations.

### **Archaeology**

**Planning Policy: NPPF – Achieving Sustainable Development, Core Planning Principles, Section 12; DPD1 (Core Strategy) KP2, CP4, BLP Policies C1.**

- 4.109 Paragraphs 126 to 141 of the NPPF set out policies to conserve and enhance the historic environment. Paragraph 137 states that LPAs should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals preserving those elements of setting which make a positive contribution to, or better reveal, the significance of the asset should be treated favourably
- 4.110 An Agreed Statement on Archaeology was prepared for the Inquiry to address this topic. The Agreed Statement included an evaluation of the effect of the proposals on the setting of the SAM, Prittlewell Camp. The Inspector concurred that the proposals would preserve the setting of the SAM and that the proposed sum for maintenance through the Section 106 Agreement, would enhance, at least visually the SAM. Conditions were agreed to address Archeological issues.

- 4.111 Since the Public Inquiry, PPG15: Planning and the Historic Environment and Planning Policy Guidance 16: Archaeology and Planning have been replaced by PPS5 Planning for the Historic Environment, which has in turn been replaced by the NPPF.
- 4.112 Paragraph 128 of the NPPF states *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”*
- 4.113 Paragraph 129 states *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”*
- 4.114 As part of the original submission associated with the application an assessment of heritage asset and the impact of the proposals upon it was carried out. This remains relevant in relation to the current application and is considered to fulfill the requirements of the NPPF. The change in the impact of the development on the adjacent SAM resulting from the proposed phasing of the development is not considered to be material as the west stand is on the opposite side of the site from where the SAM is located.
- 4.115 Essex County Council’s Historic Environment Office (ECCHEO) reviewed the application as originally submitted and raised concerns regarding the conditions that are attached to the original (2006) application and their adequacy to protect the SAM in an appropriate manner. In light of the updated advice given in the NPPF it is considered appropriate to apply conditions as requested by ECCHEO and these are included in the recommendation in Section 10.

## **Open Space, Sport and Recreation**

### **Planning Policy: NPPF – Achieving Sustainable Development, Core**

**Planning Principles, Section 8; (Core Strategy) DPD1 Policy CP7 BLP Policies: C15, R1, R2.**

- 4.116 Paragraphs 69 to 78 of the NPPF promote healthy communities. Paragraph 74 states that existing open space, sports and recreational buildings and land should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a sustainable location.
- 4.117 The Inspector considered that stadium relocation and Development Plan policy, the Club's outreach work and the future for Southend United FC needed to be considered under this heading.

*The Stadium*

- 4.118 The Inspector considered that *"the siting of a football stadium at Fossetts Farm is in line with Structure Plan Policy LRT1 and backing for a new stadium at Fossetts Farm to replace the Roots Hall Stadium is to be found in the Local Plan Second Alteration and the Core Strategy of the Local Development Framework. Structure Plan Policy LRT1 and the reference to a relocated stadium within the Second Alteration are not saved policies<sup>15</sup> but the history of the Second Alteration shows that the idea of siting a stadium at Fossetts Farm has been considered and has received backing through the Development Plan making process. Policy KP1 of the Core Strategy as it has emerged from the Examination in Public process affirms the suitability of Fossetts Farm as a location for a stadium and by the time that the Secretary of State is determining this decision will be likely to have statutory status as part of the Development Plan . The "in principle" support accorded to relocation of Southend United FC's stadium to Fossetts Farm support in Policy KP1 is an important consideration to which I attach substantial weight."*

*Club Outreach Work*

- 4.119 The Inspector stated that *"The positive work of the Southend United Community & Educational Trust is widely praised. The Club's Youth Team football programmes and Centre of Excellence promote physical recreation and nurture local talent. The strength of support for the Club from the local community is most clearly expressed by the numbers of expressions of support from local people, including in excess of 1,200 e-mails, and recognition from Southend's MPs, past and present, that this is a Club that promotes a positive perception of Southend and that gives back to its community"*.
- 4.120 *"The new stadium and enhanced facilities for players and their training would*

*help attract promising players to Southend United FC and make the retention of quality players less difficult. Whether this is or is not reflected in success on the pitch and in the football league tables would of course depend on a host of other factors and I regard the idea that promotion to and securing a place in a higher league of football could follow is highly speculative. On the other hand an aspiration to play at a high level would in itself have beneficial effects for the Club and its fan base, especially in comparison with a continuing prospect of insolvency if the Club is unable to move from the Roots Hall ground. While the match experience for spectators would be transformed by a new stadium, the success of the Club in attracting spectators and the pride that local people take in their Club will be primarily affected by success on the pitch rather than the quality of the stadium, however striking its design.”*

- 4.121 *Where I think that one can have more confidence in assessing the effect of the present proposals on the future of the Club's activities is in relation to the scope for building on and developing further the Club's outreach work. I believe that the proposed co-location of the new stadium and the training pitches at Fossetts Farm would give a major boost to this aspect of the Club's activity. The contribution that this could make to broadly based participation in active recreation at young ages and the consequential effects that could have on the well-being of the Southend community would have widespread and far reaching regenerative benefits. The co-located facilities would also bring the prospect of creating a footballing Academy”*
- 4.122 It should be noted that the player's facilities as referred to by Inspector as set out above, are largely provided within the West Stand. The proposed phasing of the development means that the applicant is proposing to house player's facilities within temporary buildings to the north of the stadium. There is no doubt that the facilities that are being proposed as a temporary measure by the club, are of a wholly inferior quality to those high quality facilities that were proposed to be provided within the West Stand. The impact of the phasing of the development in this respect is therefore, to reduce the attractiveness of the development for players and diminishes is at odds with the benefits of the development that the Inspector considers so important. Once again it can be seen how important it is, that the detail of the phasing of the development that has been submitted by the applicant be adhered to, in order for the development to fulfill the benefits to the Southend community that the Inspector gave such weight to.
- 4.123 Throughout consideration of the various proposals put forward for the club, and for redevelopment of the current site at Roots Hall, it has been an overriding requirement that the club has, at all times, a facility what is capable of accommodating league football matches. The S.106 agreements for both Roots Hall and the 2006 application have included safeguards to ensure that this is the case.
- 4.124 Whilst the applicant has stated that ultimately it is his intention that the total stadium development will be completed as approved, the proposed phasing could result in a partially completed development for a period of time.

- 4.125 It is therefore, necessary to ensure that the S.106 is drafted to ensure that the stadium is completed to at least “podium level” as part of Phase I, which would that league matches are capable of being played within the stadium.
- 4.126 Podium level has previously been defined (May 2011) as comprising the following elements:
- a) excavation works to form the seating bowl at ground level;
  - b) provision of the pitch at ground level;
  - c) provision of terracing and seating for a minimum of 13,663 and a maximum of 14221
  - d) provision of support accommodation appropriate for a minimum of 13,663 and a maximum of 14221 seat stadium;
  - e) provision of the upper level podium to provide circulation and concourse zones for spectators; and
  - f) provision of external works sufficient to provide safe routes for ingress and egress to stadium
- 4.127 In order to safeguard the facility it is necessary that this provision is incorporated into the S.106 Agreement for the extension of time application that is currently being considered.
- 4.128 With the exception of those discussed above there have been no other material changes in circumstances which would now alter the Inspector’s conclusion on this respect. Subject to the safeguards outlined above the impact of the development on open space, sport and recreation remains acceptable and is considered to comply with with the principles set out in the NPPF and Core Strategy Policy CP7.

### **Development and Flood Risk**

**Planning Policy: NPPF – Achieving Sustainable Development; Core Planning Principles; Section: 10, 11; East of England Plan Policy: WAT4; (Core Strategy) DPD1 Policies: KP1, KP2.**

- 4.129 The Inspector considered that the information submitted at the Inquiry was satisfactory. The application site is in an area with a low risk of flooding and there was no major point at issue. He recognized that conditions were proposed to deal with storage and discharge of surface water and that also in connection with water, it was noteworthy that rain water harvesting was receiving attention in the detailed design of the stadium to contribute to pitch maintenance and to demands for water throughout the stadium on match days . He made no further comment on Flood Risk issues. PPS 25 was published after the 2008 decision and the advice within it is reflected in the NPPF, however, it is not considered that this has resulted in changes which affect the Inspector’s conclusions.
- 4.130 The development is therefore, considered to be in accordance with the requirements of the NPPF and Core Strategy Policies in respect of flood risk.

## Other impacts as a result of the proposed phasing

### *Noise*

- 4.131 The impact of noise from the stadium and associated development will be altered as a result of the proposed phasing. The applicant states that the ends of the north and south stands are to be blocked off in order to minimise noise break-out via the exposed sides of these stands. An addendum to the noise assessment originally submitted with the 2006 application has been submitted to address the issue of phasing. This states:

*This has the potential to affect the noise impact of the development in two ways:*

- The absence of the west stand will mean less spectators and therefore less overall noise being generated by the stadium;*
- However, the absence of the west stand will also mean less screening of noise propagation to the area west of the stadium.*

- 4.132 Computer modelling of noise from the revised proposals for the stadium has been undertaken in order to determine what impact the proposed phased construction of the stadium will have on resulting noise levels at the nearest sensitive receptors during relevant periods.

- 4.133 This modeling shows that for most receptors, there will be no increase in noise above the levels predicted previously as a result of the omission of the west stand. Indeed, at Smithers Farm and The Wellesley Hospital the resulting noise levels actually reduce before a football match. This is due to the reduction in overall noise generated by the stadium as a result of the absence of spectators in the west stand.

- 4.134 However, at the Gardens of Remembrance which is to the west of the development, the omission of the west stand will result in a 7 dB and 6 dB increase (from the levels predicted previously) in overall development noise before and during a match. This is due to the absence of screening of noise that would otherwise have been provided by the west stand. There are also increases in noise to dwellings at the edge of the cemetery during matches.

- 4.135 Further modeling has been done to determine whether the construction of a 5m high earth bund or acoustic fence, or combination of the two located along the western side of the ground, would affect the predicted noise levels.

- 4.136 Comparison of the calculated development noise levels with a 5 metre high earth bund located along the western side of the ground with the base scenario noise levels, shows that the bund/barrier reduces noise to the west of the stadium such that change in significance of noise impact is limited to a change from 'minor' to

'moderate' noise impact at the Gardens of Remembrance prior to matches being played. During matches at the Gardens of Remembrance and at all other receptors both before and during matches, there is no change in the *significance* of noise impact as a result of the proposed phased development of the stadium.

- 4.137 The impact from noise generated by the development on the Gardens of Remembrance has previously been a concern to both officers and Members. The atmosphere within the Garden should remain tranquil for those using it. Previously Members have accepted the implementation of a Phased development. The increase in impact of noise from the development, albeit limited, will impact on the tranquility that is currently enjoyed. This reinforces officer's views that it is vital that the West stand of the development be completed as soon as possible after the main stadium and that therefore a phasing condition is necessary. Although some plans have been submitted showing the location of the proposed earthen berm (bund) and acoustic fence, these are not specifically related to the noise assessment that has been submitted and no evidence has been submitted to show that these particular details are acceptable. Therefore a condition is necessary requiring further details to be submitted.
- 4.138 Additionally, the latest plans submitted by the club, show a "replay" screen attached to the proposed netting around the West stand. This has not previously been considered and no supporting information has been submitted with the application to demonstrate that its impact (particularly on the Gardens of Remembrance) would be acceptable. A condition requiring details to be submitted and agreed (including a noise assessment) is necessary.

### **Conditions**

- 4.139 The Inspector imposed a substantial number of conditions in relation to the application and these are repeated as part of the recommendation in Section 10. Where relevant and necessary and as outlined in the main report, they have been amended to take account of legislation changes or changes in circumstances.

### **Section 106 Agreement**

- 4.140 The Inspector considered that the submitted Section 106 Agreement was a very important document in this case:

*"The importance attaching to Travel Plans and to the Transport Management Strategy applying to match days can hardly be overstated in this case. There are other important provisions securing junction improvements and linking stages in construction of the retail development to stages in construction of the stadium. I am satisfied that the section 106 agreement is suitably expressed"*

- 4.141 When the application was considered at DC Committee in January 2012, the S.106 Agreement was revisited in relation to highways issues, as is discussed in



more detail below. Members found these alterations acceptable. Now the applicant is seeking further changes to the S.106 Agreement as follows:

#### *Town Centre Contribution*

- 4.142 The applicant originally contended that the TCC is no longer required (although they have now offered a payment of £2.25m). Their case is based on several factors. They state that at the Inquiry the Council confirmed that:

*“Whilst the town centre contribution was offered by the applicant, it was not requested by the Council. The Council could not request such a contribution as it had acknowledged that there would be no harm to the town centre.”*

- 4.143 They also state that :

*“The 2012 RIA submitted with this update demonstrates that the proposed retail floorspace will not have an unacceptable impact on the overall vitality and viability of the town centre and therefore accords with the relevant local and national planning policies. Accordingly the test contained in CIL Regulations (122(2)) is not met, in particular that the obligation is not necessary to make the development acceptable in planning terms. There is therefore no justification for the contribution.”*

- 4.144 The applicant has sought the opinion of legal Counsel with regard to this issue.

- 4.145 The issue of removal of the TCC and the resulting impact on the Town Centre is discussed at paragraph 4.38 onwards above.

- 4.146 With regard to the issue of whether or not the TCC complies with the CIL Regulations, in light of the applicant’s assertion, officers sought their legal opinion, as to whether the applicant’s view is correct, or whether that in fact the TCC is lawful. It should be noted that in his advice the TCC is referred to as the “Town Centre Regeneration Sum”.

- 4.147 The Council’s legal opinion found that:

*“Mr Lockhart-Mummary’s conclusion does not address the fact that the Inspector did not actually say that he did not regard the obligation in relation to the £6m Town Centre Regeneration Sum as failing to satisfy the test of necessity etc in Circular 05/05 in para. 10.51 of his report. What that paragraph says is:*

*“ In relation to impact on the town centre, note should be taken of positive impacts that could result from the potential knock on effects of relocating the football stadium to Fossetts Farm. Not only is there a prospect of redevelopment at Roots Hall but that in turn has opened up the prospect of redevelopment of site in London Road which Renaissance Southend Ltd has identified in the Central Area Masterplan (CD50) as an edge of Town Centre site with development potential. I attach lesser weight to the*

*proposition that as part of the Section 106 Agreement a contribution of £6 million will be available for improvements to the town centre. I recognise that it is within the scope of a section 106 agreement that such a payment should be made and view the fact that it should be available at an early date to make a start on improving the physical environment of the town centre is of some though in my view limited benefit.”*

- 4.148 *“That is, the Inspector was dealing with “positive impacts” of the proposals in respect of which he attached “lesser weight” to the availability of the £6m Town Centre Regeneration Sum than he did to the prospect of redevelopment at Roots Hall and the resulting prospect of development at London Road. He goes on to say expressly that he “recognise[s] that it is within the scope of a section 106 agreement that such a payment should be made...”*
- 4.149 *The above is consistent with the Inspector’s description of the section 106 agreement as “a very important document in this case”, see para. 10.87 of his report. That is, it was a matter to which he evidently attached considerable weight in recommending in favour of granting planning permission.*
- 4.150 *He then refers to an intermediate category of measures covered in the agreement, namely, the provisions relating to Affordable Housing, the £6m Town Centre Regeneration Sum, restrictions on town centre retailers relocating to the site, a Scheduled Ancient Monument payment and a commitment to retain HOK as the architects for the scheme*
- 4.151 *He finally mentions “other provisions which I consider to be of lesser significance” including the contribution to community and leisure facilities and a sum for an off-site play area*
- 4.152 *So even though there is a gradation of “importance” or “significance” which the Inspector attaches to those matters, there is no indication that he does not regard them as satisfying the tests in the Circular. On the contrary, in relation to the £6m Town Centre Regeneration Sum he states expressly in para. 10.51 that it was “within the scope of a section 106 agreement that such a payment should be made”.*
- 4.153 *It is to be noted that para. 10.51 explicitly cross-refers to para. 5.25 (in the Inspector’s recording of local planning authorities’ case) which states as follows:*
- “It has been suggested that the proposed £6 million contribution to physical works in the Town Centre is nothing more than a sop to make the proposal more acceptable. But that is not an accurate assessment. The civic role that the club plays in local society later will be covered later in these submissions but the sum, offered by the club and not demanded by Southend Borough Council, is yet another facet of the community benefits delivered by the club. It accepts that the proposed retail development will have an effect but is nevertheless prepared to put something back to mitigate that impact”. (emphasis supplied)*

4.154 *This last observation was not dissented from by the Football Club in their submissions (perhaps not surprisingly) and compare the statement in their own case in para. 4.89 (albeit in the context of “significant benefits” of the scheme):*

*“The scheme brings other significant benefits with it. It will create almost 1,000 new jobs across a range of sectors which are well suited to the area around Fossetts Farm. Those jobs will make a very important contribution to the delivery of Southend Borough Council’s job targets set out in the Core Strategy: 13,000 net new jobs by 2021, of which 2,750 are to come from PUAs. That is a very challenging target. A contribution of £6m will be made for physical improvements to the town centre and will complement the private investment being made by parties such as Delamere in Victoria Plaza. There will be significant investment in the road infrastructure with full signalisation of the Eastern Avenue/Sutton Road junction together with other road improvements...” (emphasis supplied)*

4.155 *All of the above no doubt informs the Secretary of State’s conclusions in the minded to grant and final decision letters respectively that*

*“38. The Secretary of State has considered the signed, dated and executed Section 106 Agreement submitted with the applications and national policy as set out in Circular 05/2005. She notes that the Inspector considers that, with one caveat, this Agreement is suitable (IR10.87-IR10.89); and she agrees that a planning obligation would be necessary to deliver the benefits proposed and that these would comply with national policy guidance...”*

*“15. The Secretary of State is now satisfied that the Main Agreement as supplemented and amended by the Deed of Variation meets fully the concerns relating to the Main Agreement as set out in her letter of 5 March 2008 and described in paragraph 3 above. She is satisfied that the planning obligations contained in both documents are necessary and relevant to the proposed development and meet the policy tests of Circular 05/2005...”*

4.156 *Mr Lockhart-Mummery’s Opinion goes on to point out that the Council accepts that the retail position is now similar to that prevailing at the time of the call-in inquiry and that “no negative impact” would be caused to the town centre or other retail centres by implementation of the Football Club’s proposals under their time extension application, see para. 9. He states that the Council’s assessment does not meet the stringent requirements of reg. 122(2) of the CIL Regulations and therefore that requiring that the £6m Town Centre Regeneration Sum be paid would be unlawful.*

4.157 *Nevertheless, as set out above, the Secretary of State plainly regarded payment*

*of the Sum as being “necessary” (i.e. in accordance with the policy tests in the Circular including necessity) in the context of the quotations above and in particular the Inspector’s statement in para. 10.51 that “it is within the scope of a section 106 agreement that such a payment should be made” which itself follows on from the Council’s case, recorded in para. 5.25, that “[the Club] accepts that the proposed retail development will have an effect but is nevertheless prepared to put something back to mitigate that impact.”*

4.158 *The Sum may have been “offered by the club and not demanded by Southend Borough Council” as also recorded in para. 5.25 of the Inspector’s report, but the obligations in the section 106 agreement were scrutinised by the Inspector and the Secretary of State and were found to satisfy the policy tests which are effectively the same as those in the Regulations.*

4.159 *Again, the Inspector did regard the Sum as being of entitled to be accorded “lesser weight” as a “benefit” than the prospect of redevelopment at Roots Hall and the resulting prospect of development at London Road and also as being only of “some though... limited benefit”. But if anything that matter goes to the assessment or calculation of the total Sum rather than to the principle of it.*

4.160 *The same applies to the contention in relation to the extent of the requirement being “directly related to the development”. The amount of contribution may be an issue for assessment (see further below) but that does not affect the principle of it. As stated in para. 5.26 of the Inspector’s Report (again recording the Council’s case):*

*“The existence of this sum of money will enable significant investment to be made in the town centre. Physical improvements to the town centre are just as important as the attraction of retailers to it. The existence of this sum of money and the works that will be undertaken using it and other moneys that will become available will act as a catalyst to make the town centre more attractive to the very retailers that need to be attracted to the area thus making the St John’s Quarter proposals a better prospect for success. This is a significant material consideration in the determination of this application.”*

4.161 *The above is also reflected in the case of Renaissance Southend, which Mr Lockhart-Mummery’s instructions acknowledge was converted to written representations only as a result of the Club’s offer to pay the Sum as proposed to be secured by the section 106 agreement, see paras. 7.38 of the Inspector’s Report:*

*“Within the original written representations (RSL3), the Company records that it has been party to negotiations between the applicant and Council on the broad principles of a section 106 agreement, in particular those elements designed to help mitigate the impact of the retail scheme on the town centre. The inclusion of a Town Centre Regeneration Sum of £6 million, to be used for implementing further public realm improvements within the town centre is welcomed. Public realm enhancement is a key*

*element of the emerging Central Area Masterplan. Although some of these costs could be met from town centre development there will be a shortfall that otherwise will need to be met from the public purse”.*

4.162 *The final test to be met in reg. 122(2) is that the Sum should be “fairly and reasonably related in scale and kind to the development”. Again, this was one of the policy tests in former Circular 05/05 and can be taken to have been met from the point of view of all parties to the inquiry and the Inspector and Secretary of State. Once more, the issue of fair and reasonable relation, if it is an issue at all, may be one for consideration under the heading of assessing the quantum of the contribution. But the fact remains that it was regarded as unobjectionable in the inquiry.”*

4.163 **The Legal opinion concludes that:**

*I do not share Mr Lockhart-Mummery’s view that seeking to require payment of the Sum would of itself be “unlawful” in the context of the CIL Regs, subject to proper justification. There may be an issue on what the appropriate level of that payment may be having regard to changes in circumstances since the inquiry in 2007. But so long as the Sum is calculated with due regard to material factors, that would not render imposition of the requirement unlawful.”*

4.164 **And also states:**

*“I share Instructing Solicitor’s surprise that Mr Lockhart-Mummery’s Opinion does not refer to the fairly recent case of Derwent Holdings Ltd v. Trafford BC and others [2011] EWCA Civ 832 in which the Court of Appeal dismissed a challenge to a planning permission on grounds of alleged reliance on “unnecessary” benefits secured by a section 106 **agreement**. **In giving judgment Carnwath LJ** (before his promotion to the Supreme Court) said this at para. 15:*

*“...The offer of a legal agreement to secure [certain] benefits would no doubt have added to the attractions of the proposal. But that does not mean that it was regarded as necessary to offset some perceived planning objections. Nor is there anything in the officer’s report to suggest that it was. There is nothing objectionable in principle in a council and a developer entering into an agreement to secure objectives which are regarded as desirable for the area, whether or not they are necessary to strengthen the planning case for a particular development.”*

***[This case] is well worth noting as an indication of the court’s lack of stringency in relation to the terms of the CIL Regulations.”***

4.165 Therefore Officers are satisfied that the TCC is lawful and is in accordance with the CIL Regulations.

4.166 The applicant has now offered to make a TCC of £2.25m as noted above, whilst the Fossetts development as a whole is considered to remain acceptable in its broadest terms, whilst the positive impacts for the Borough as a whole are recognised and officers wish to see the development come forward to fruition, it is considered necessary and appropriate that a contribution for works to improve the Town Centre is made as part of the S.106 Agreement in order to help offset the negative impact of the proposed development on the Town Centre.

4.167 The original Town Centre Contribution that was offered by the applicant was £6m. The applicant is currently willing to make a phased contribution of £2.25m. The judgement for Members is whether this sum which does not address all the impacts when weighed in the balance with all the other consequences, is acceptable, there is in additional question about further safeguards that would be required in respect of the S.106 which are discussed below.

*Phasing*

4.168 The applicant is seeking agreement to phased implementation of the development. The details of the phasing are set out in paragraphs 4.17 above.

4.169 Whilst the applicant has stated that ultimately it is their intention that the total stadium development will be completed as approved, the proposed phasing could result in a partially completed development for a period of time. The importance of ensuring that the development is carried out in its entirety is discussed above. However, it is not acceptable for the current stadium at Roots Hall to be removed until a pitch and facilities which would allow league games to be played within the stadium at Fossetts is provided. This requirement is addressed partly within the Roots Hall S.106 Agreement, and it is also necessary to ensure that the S.106 for the extension of time application is drafted to ensure that the stadium is completed to at least "podium level" as part of Phase Ia, which would that league matches are capable of being played within the stadium.

4.170 Podium level has previously been defined (May 2011) as comprising the following elements:

- g) excavation works to form the seating bowl at ground level;
- h) provision of the pitch at ground level;
- i) provision of terracing and seating for a minimum of 13,663 and a maximum of 14221
- j) provision of support accommodation appropriate for a minimum of 13,663 and a maximum of 14221 seat stadium;
- k) provision of the upper level podium to provide circulation and concourse zones for spectators; and
- l) provision of external works sufficient to provide safe routes for ingress and egress to stadium

4.171 It is considered necessary that the details of the proposed phasing are set out within the S.106 Agreement, in order to ensure the development is carried out in an appropriate manner.

*Traffic*

4.172 The following comments refer to the page numbers within the existing agreement.

4.173 Since the submission of the previous application the transport issues related to S.106 contributions have changed as follows:

- Definition of “Extended Route 13 Service”: Service 13 no longer operates this should be changed to route 29 (page 5)
- Priory Crescent Contribution – The Priory Crescent / Cuckoo Corner roundabout works have been completed by the Council and therefore a contribution of this cost for highway works to this junction is no longer required. However, this junction shall need the signal cycle timings adjusted in order to cater for the development traffic. The S.106 should be amended to this effect (page 9).
- “ Route 13 Bus service” definition, this needs to refer to route 29 instead of route 13 – and the route needs to be extended into Fossetts in both directions (Page 10)
- Highways Officers are seeking a contribution of £20,000 for webcams / cameras to link to the Council’s Traffic control centre on Cuckoo Corner, The Bell, Eastern Avenue / Sutton Road roundabout and Eastern Avenue / Royal Artillery Way / Hamstel Road roundabout. It is considered that this contribution is reasonable given that the changes that have taken place within the highways network (page 25)
- A contribution for the Cuckoo Corner roundabout is sought for the value of £7,500 for the changes and monitoring of the signal cycle times. The other highway works including the new Eastern Avenue access signalised junction, the Eastern Avenue / Sutton Road roundabout and the Eastern Avenue / Royal Artillery Way / Hamstel Road roundabout, shall be covered under the S278 agreement. It is considered that this additional contribution is reasonable and necessary given the amendments to highways conditions since the application originally considered (page 29 Section 14).
- Route 13 bus service no longer exists so this should be rephrased to (page 31 Section 19): The owners shall consult with the relevant bus operators and the Council to provide a suitable service for the development to ensure sustainable links are provided. The details of this shall be agreed and approved in writing by the Council. The list of conditions is to remain.
- The Priory Crescent contribution has changed to a contribution for Cuckoo Corner roundabout to monitor and adjust the traffic signal cycle timings and a contribution to The Bell junction improvements (page 35)

- Signalised layout of Eastern Avenue / Sutton road roundabout to be approved by the Council (page 44)
- Signalised layout of Eastern Avenue / Royal Artillery Way / Hamstel Road to be approved by the Council.

These amendments are considered to be reasonable and necessary given the changes that have taken place within the highway network since the 2008 permission.

*Removal of HOK*

4.174

The S.106 for the original application included a clause that HOK (the architects for the approved scheme) should oversee the preparation of the detailed drawings that were required to be submitted for scheme. HOK are no longer the scheme architects, and although it is preferable to retain “Populous”, the current architects, it is considered unreasonable to require this. Therefore, it is suggested that this clause be removed from the S.106 Agreement.

*Retention of retailers in Town Centre.*

4.175

The original S.106 Agreement contained a clause that required that:

*“The Owners shall take such steps as may be necessary to require any retail firm of business trading in the Town Centre from the date of this Deed to the date the Retail Units are at the stage of Practical Completion which proposes to occupy any of the Retail Units to guarantee that such retail firm or business shall maintain and keep its existing Town Centre premises (or alternative premises in the Town Centre of at least the same size) open to trade to the public for a minimum of 5 years from the date they first begin to trade from the retail units.”*

4.176

Given the current economic circumstances, the more fragile nature of the High Street and the reduced TCC that the applicant has offered to mitigate the impact of the development on the Town Centre, it is considered reasonable and necessary to increase the minimum period of time that a business is required to maintain a presence within the Town Centre to 10 years. The applicant has yet to agree this alteration and their comments will be reported.

*Monitoring fee*

4.177

Since permission was originally granted for the development Supplementary Planning Document 2: Developer Contributions has been published. This includes a provision for the developer to make a financial contribution to cover the costs of Monitoring their S.106 agreement. Given the complex nature of the S.106 agreement associated with this application, such a fee is considered appropriate and necessary in this instance. Given the quantum and value of S.106 Contributions the monitoring fee will be the maximum payable at £10,000.

4.178

With the exception of the alterations as set out in the man report, the proposed S.106 Agreement would remain as approved with the 2006 application.

**Community Infrastructure Levy Regulations**



4.179 The Community Infrastructure Levy Regulations 2010 came into force on 6 April 2010. The planning obligation discussed above and as outlined in the recommendation below has been fully considered in the context of Part 11 Section 122 (2) of the Regulations, namely that the requested planning obligations are:

- a) necessary to make the development acceptable in planning terms; **and**,
- b) directly related to the development; **and**,
- c) fairly and reasonably related in scale and kind to the development

4.180 Officers are satisfied that the TCC is lawful and is in accordance with the CIL Regulations, and that the planning obligation which is considered necessary to meet the requirements of this development meets all the tests of the CIL Regulations and so constitutes a reason for granting planning permission in respect of application 11/00538/EXTM.

#### **Other Matters that the Inspector Considered Relevant**

4.181 A further aspect of the case which Inspector considered to be of significance was the level of support for the development:

*“... I came to regard [the level of support] as of increased significance during the course of the inquiry. At various times in the inquiry, I asked witnesses how much weight should be attached to the fact of local support for the proposal: support expressed both by the fans of Southend United FC and by the decisions of elected Councillors from both Rochford District Council and Southend Borough Council. I recognise that the level of support shown for these applications by members of the public is exceptional”*

*“A further point is that while important local consequences will flow from the decision that the Secretary of State is to make, the effects of those consequences will not be felt outside the Southend and Rochford area in any adverse, direct manner that would be of any significance. It is this aspect of the case, deriving in large measure from Southend's particular geography, which I have come to see during the inquiry as being of great significance. The prospective traffic impacts would be local. Questions of trade diversion and of future investor confidence in the town centre are matters that impact to any marked degree on Southend town centre alone. Similarly the potential benefits for Southend United FC are principally local benefits for Southend, although in this case, the existing and potential fan base does extend beyond the Southend and Rochford area. Given the significance of the local consequences, the views of the locally elected Councillors should be accorded considerable weight.”*

4.182 Thus, because the main impact of the proposed stadium and retail development was on Southend Town Centre and its surroundings, the Inspector gave

significant weight to the fact that there was a high level of support for the scheme from the Clubs supporters and that the Committee Members were strongly in support of the development.

- 4.183 The level of support for the proposal remains a material consideration in this case. It should be noted that there has been a significant reduction in the letters of support received in support of this particular application, however, it is considered that the previous level of support must be given some weight because this application is to extend the life of the original permission. However, should the proposals change, this issue will need to be revisited and re-evaluated.

## **Other Matters**

### *Time Limit for implementation*

- 4.184 The applicant is seeking a 5 year period for implementation of this planning permission. The normal period given is 3 years. The applicant states that as the provisions for extensions to time limits can only be used once, given the current economic factors five years for implementation would be appropriate. However, officers are of the view that it is important that this scheme comes forward within a reasonable timescale, indeed the ability for the scheme to be brought forward quickly was given significant weight by the Inspector, it should also be noted that it is 18 months since the application was submitted and nearly a year since the application initially came before Development Control Committee and therefore in this instance it would not be acceptable or appropriate to grant permission for a longer time period.
- 4.185 *Members may however, also wish to consider whether, in order to reduce the level of uncertainty which currently exists in relation to this site, a shorter time period for implementation would be appropriate in this instance.*

## **5.0 Conclusion**

- 5.1 The advice contained within Circular 08/2005 in relation to applications to renew existing planning permissions is set out in section 3 of this report. The application has been considered accordingly.
- 5.2 There have been material changes in planning circumstances since the original permission was granted; these are set out in the main report. However, the changes in policies and guidance and the material changes in the highways situation that have occurred in the locality, do not lead to the conclusion that a different recommendation should be reached, subject to some changes to the agreement and provided an acceptable level of Town Centre contribution is made by the applicant.
- 5.3 It is considered that continued failure to commence the development would contribute unacceptably to uncertainty about the future pattern of development in the area, therefore the applicant's request to grant 5 year permission is not

considered reasonable. The applicant has submitted details which suggest this development will go ahead in Spring 2013 and this is supported by the fact that associated development at Roots Hall now has outline permission and that further associated applications have been granted planning permission. For these reasons and because (at no fault of the Council) the application has already been under consideration for 18 months, which has already effectively held the 2006 application “in limbo” it is considered necessary to give a reduced period of time in which the application should be commenced. Therefore it is proposed to require commencement within 3 years.

- 5.4 For these reasons, the application is considered to be in accordance with circular 08/2005 and it is considered that permission should be granted to extend the time limit of the application subject to completion of a revised S.106 Agreement subject to conditions as set out in Section 10. However, in order to avoid further uncertainty regarding this development, it is considered necessary to impose a time limit within which the applicant will be required to complete the associated S.106 Agreement. A period of 3 months from the date of this Committee is considered reasonable. After this date the application should be refused for reasons relating to failure to complete the required S.106 Agreement and also that continued delay in implementation of this permission will create uncertainty about the future pattern of development, which could be damaging to the town centre.

## **6.0 Planning Policy Summary**

- 6.1 National Policies: NPPF – Achieving Sustainable Development; Core Planning Principles; Sections: 1 - Building a strong, competitive economy; 2. Ensuring the vitality of town centres, 4. Promoting sustainable transport, 6. Delivering a wide choice of high quality homes, 7. Requiring good design, 8. Promoting healthy communities, 9. Protecting Green Belt land, 10. Meeting the challenge of climate change, flooding and coastal change, 11. Conserving and enhancing the natural environment, 12. Conserving and enhancing the historic environment.

- 6.2 East of England Plan (May 2008) Policies - SS1 (Achieving Sustainable Development); SS2 (Overall Spatial Strategy), SS3 - Key Centres for Development and Change; SS5: Priority Areas for Regeneration; SS6: City and Town Centres SS7: Green Belt; E1: Job Growth; E2: Provision of Land for Employment; E3: Strategic Employment Locations H1 – Regional Housing Provision 2001-2021; H2 (Affordable Housing); T2: Changing Travel Behaviour ; T3 Managing Traffic Demand T4 (Urban Transport); T9 (Walking, cycling and other non motorised transport); T14 (Parking); ENV2: Landscape Conservation; ENV3: Biodiversity and Earth Heritage; ENV6: The Historic Environment ENV7 (Quality in the Built Environment); ENG1 (Carbon Dioxide Emissions and Energy Performance); WAT4 (Flood Risk Management); WM6 (Waste Management in Development); ETG4 (Southend on Sea Key Centre for Development and Change).

- 6.3 DPD1 (Core Strategy) Policies- Key Policies, KP1 (Spatial Strategy); KP2 (Development Principles); KP3 (Implementation and Resources); CP1 (Employment Generating Development); CP2 (Town Centre and Retail Development); CP3 (Transport and Accessibility); CP4 (The Environment and Urban Renaissance); CP5 (Minerals and Soil Resource); CP6 (Community Infrastructure); CP7 (Sport Recreation and Green Space); CP8 (Dwelling Provision).
- 6.4 BLP Policies; G1(Development within the Green Belt), G1a (Safeguarded Land (Second Alteration); G3 (Landscape Protection and Improvement); G5 (Special Landscape Areas); C1; (Ancient Monuments and Archaeological); C7 (Shop and Commercial frontage and Fascias); C8 (Advertisements); C11 (New Buildings, Extensions and Alterations); C14 (Trees, Planted Areas and Landscaping); C15 (Retention of Open Spaces); H5 (Residential Design and Layout Considerations); H7 (The Formation of Self-Contained Flats); E5 (Non-Residential Uses Located Close to Housing); S1 (New Shopping Developments), S2 (Southend Town Centre); S3 (Large Shopping Developments); U1 (Infrastructure Provision), U6 (Non-Residential Health Care Facilities); L1 (Facilities for Tourism); L6 (Hotels and Guest Houses); R1 (Outdoor Sports Facilities); R2 (Indoor Sports Facilities); U1 (Infrastructure Provision); U2 (Pollution Control); T1 (Priorities), T8 (Traffic Management and Highway Safety), T11 (Parking Standards), T12 (Servicing Facilities), T13 (Cycling and Walking).
- 6.5 Supplementary Planning Document 1: Design & Townscape Guide.
- 6.6 Supplementary Planning Document 2: Developer Contributions.
- 6.7 EPOA adopted Vehicle Parking Standards.
- 6.8 Southend Central Area Masterplan (2008).
- 6.9 Southend-on-Sea Retail and Town Centre Study January 2011.
- 6.10 Southend Area Action Plan DPD – proposed submission September 2011

## 7.0 Representation Summary

- 7.1 **Environment Agency** – (original and revised submissions) Having reviewed the case history, and in line with the decision on the previous application SOS/06/01300/FUL, we recommended the conditions attached to that application by the Secretary of State in the letter dated 30th June 2008, be retained on this extension of time application. On this basis we have no objection to the extension of time.
- 7.2 **Essex County Council Historic Environment** – (original submission) In looking at the archaeological conditions placed on the separate section of the Southend

and Rochford planning application approvals it is clear that in some areas the archaeological response for the new applications can follow the normal defined archaeological procedures. In this case it would be our recommendation that an archaeological brief is produced by ECC and SOSBC which is then responded to by the developers archaeological contractor (In this case probably Wessex Archaeology). The one area which has been partially trial trenched (Area 1) seems to have been extensively levelled and as such needs no further work.

The condition for access for a local representative approved by the council placed on the application by the inspector has little value, and I do not see the advantage of placing this on any future application.

The developer's archaeological contractor will need to provide a written scheme of investigation, to both planning authorities, which will need to be agreed by the curatorial staff. Once the work commences on site it will need to be monitored by officers to ensure appropriate standards are adhered to.

Following the initial trial trenching a programme of follow on excavation will be agreed within those areas where archaeological deposits are identified and again monitored by Ken and ourselves.

Once the fieldwork has been completed a programme of post excavation and publication, which would also need to be monitored by Ken and ourselves, both to ensure appropriate standards are maintained at that it follows an agreed timetable. .

All of this work can be controlled by the production of the brief and the archaeological contractors Written Scheme of Investigation. This work is made clear in the draft archaeological brief submitted with these comments.

7.3 **Rochford DC** (original submission) - Further to the letter sent to you dated 10<sup>th</sup> August 2011, the consultations on the above planning application were reported to the Council's Development Committee in August. Please see below the comments arising from Members discussion of the items at Committee which we request are taken into consideration in the determination of these applications.

1. To emphasise to Southend-on-Sea Borough Council the need for Section 106 Agreement which the main stadium development is subject to, to require a mechanism for monies to be made available for the maintenance of the ditches north of the flood attenuation pond.

This is because these ditches which will serve the proposed flood attenuation pond (which itself serves the main stadium) will be reliant on these drainage ditches to the north of the development. They are outside of the application site but may need works undertaken to them and long term maintenance to sustain the required capacity

2. The travel plan to include provision for away supporters to be directed to the stadium via the A127 rather than via Sutton Road.

3. The impact of the retail element of the scheme on town centres in Rochford District and the local retail centres, including the airport retail park should be carefully considered with regard to national planning policy contained within PPS4 and PPS6.

4. The visual intrusion of the proposal in terms of both long and short range views should be considered carefully with regard to ensuring that appropriate and effective soft landscaping at the site, particularly at the boundaries, is required and implemented. This is considered to be particularly important given that the site directly abuts part of the Rochford District, which is designated as Green Belt and has a rural character and appearance.

5. Planning conditions and legal agreement requirements that related to protection of residential amenity in the original decision should be carried forward on the new permission, if approved, in the interest particularly of protecting the amenity of occupants of residential properties in the Rochford District close to the northern boundary of the site.

6. Planning conditions that ensure that the football stadium is erected before any of the other facilities included in the stadium application, such facilities not to be erected in the event of the stadium not being built.

Planning conditions imposed on the previous approval to be carried over to any new consent issued particularly with reference to those relating to pollution control measures for surface water runoff.

7.4 **Natural England** (original submission) Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

From the information provided with this application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process.

However, we would expect the LPA to assess and consider the possible impacts resulting from this proposal on the following when determining this application:

#### Protected species

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application. The Government has provided advice on BAP and protected species and their consideration in the planning system. If there is a

delay in implementing the permission, the protected species surveys may require updating in order to obtain any necessary licences.

The following link to some guidance Natural England Standing Advice on our website has been produced to help the authority better understand the impact of this particular development on protected or BAP species should they be identified as an issue at this site and whether following receipt of survey information, the authority should undertake further consultation with Natural England.

**Local wildlife sites** If the proposal site is on or adjacent to a local wildlife site, e.g. Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site before it determines the application.

#### **Biodiversity enhancements**

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 14 of PPS9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act 2006 which states that “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat”

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

- 7.5 **Anglian Water** - (original submission) No comments.
- 7.6 **Essex and Suffolk Water** - (original submission) No comments.
- 7.7 **Police Architectural Liaison Officer** - (original submission) No comments.
- 7.8 **Fire Brigade** – (original submission) Additional water supplies for firefighting purposes may be required.
- 7.9 **Southend Access Group** – (original submission) No comments
- 7.10 **Essex Chambers of Commerce** – (original submission) No comments

- 7.11 **British Gas Plc** – (original submission) No comments
- 7.12 **Sport England** – (original submission) No comments
- 7.13 **CPRE (Essex)** – (original submission) No comments
- 7.14 **Essex Wildlife Trust** – (original submission) No comments
- 7.15 **Ancient Monuments Society** – (original submission) No comments
- 7.16 **Council for British Archaeology** – (original submission) No comments
- 7.17 **Southend Retail Association** – (original submission) No comments
- 7.18 **Great Eastern Railway** – (original submission) No comments
- 7.19 **Ramblers Association** – (original submission) No comments
- 7.20 **Safety at Grounds** – (original submission) No comments
- 7.21 **Essex Police** – (original submission) No comments
- 7.22 **Arriva Southend** – (original submission) No comments
- 7.23 **The Airport Director** – (original submission) No comments
- 7.24 **Police Architectural Liaison Officer** – (original submission) No comments
- 7.25 **Asset Management** – (original submission) No comments
- 7.26 **Property and Regeneration** – (original submission) No comments
- 7.27 **Parks and Open Spaces** – (original submission) No comments
- 7.28 **Children and Learning** – (original submissions) Primary This area of the borough is at the top end of the north south corridor that has seen the highest increase in the birth rate and demand for primary places due to movement into the borough. The primary schools within acceptable distance from this development are all full and being asked to expand. Any further addition to the already planned for high numbers will increase the need for places and add costs to an already tight budget.
- Secondary The local secondary school is split over two sites and does have spaces. However, it is currently in special measures which means that parents are looking further afield and putting pressure on other local secondary schools that are, in the main, full. As the new accommodation in this application will increase demand, secondary contributions are sought.



Post-16 There are Post-16 places available at local schools and also the college depending on the course subjects being sought.

7.29 **Design and Regeneration** – (Revised Submission) The temporary approach to accommodation provision, together with the development of a 3 sided structure in the short term, is not considered to be an acceptable permanent solution to the stadium's design.

It is considered that any permission should be carefully worded to ensure that it is clear that the portacabin units, proposed to accommodate dressing rooms, offices, medical rooms and such, are to be a temporary measure only and will not be acceptable in the medium/long term or as a permanent solution. The 4 sided stadium and hotel, together with the associated retail development, offer a comprehensive solution to the redevelopment of this site, and should be brought forward as such. Furthermore, the portacabins appear to be substantial structures yet no detailed elevational plans have been provided, nor is it clear if or how they will be linked to the stadium, so their design impact cannot be fully appraised. These plans will need to be provided and agreed. **[officer comment – any additional structures (such as portacabins) will require a separate planning application]**

The plans outline how the stadium will be brought forward at Phase 1A with three sides, which include changes to the proposed layout of accommodation and associated changes to the elevations in the form of new doors and windows, and the repositioning of some doors and windows. Having considered the plans, on balance there are no objections to the repositioning of existing / formation of new windows. In regard to the west stand and the impact the proposed phased construction will have on the overall design quality of the stadium, it is proposed to clad the end of the seating area in a temporary translucent polycarbonate cladding. This material is being used elsewhere on the stadium and seems an appropriate response as a temporary solution, although the plans provided are not considered to provide adequate detail to be able to comprehensively appraise the design implications of these proposals. A 3d visual would be helpful. Of course, as outlined above, this would not be acceptable as a permanent solution and it is noted that the phasing of the 4<sup>th</sup> stand is to be brought forward relatively soon after construction begins, which is an important and necessary step given the importance of this stand to the overall design of the stadium and significant level of accommodation it provides.

A blockwork wall would also be constructed to the western end of the pitch and netting installed – while the locations of these are indicated on the plans, full details have not been provided and again further details will be needed, and agreed. The same applies to the proposed acoustic fence, which would be accommodated to the south and west of the stadium together with a 'c' shaped acoustic earthen wall between the acoustic fence and pitch.

The lack of information and detail in regard to the design is an issue. The 3D

visuals provided within the design and access statement do not show the 3 sided stadium (as proposed for phase 1a) or the temporary portacabin accommodation so it is not possible to fully understand the implications of these proposals – particularly the profile of the earthen wall, the design and scale of the acoustic barrier and the cladding / blockwork wall to the seating area. It appears from the design and access statement that the acoustic fence is to be of timber construction, with planting included both on the development site and within the neighbouring garden to enhance the scheme. Details will need to be provided and agreed for each of these elements of the design.

Overall, while the proposed amendments to the stadium in regard to the positioning and provision of fenestration are not objected to in principle, there are overarching concerns as to the temporary nature of some of the design solutions proposed. It should be made clear that these – including the portacabins, temporary translucent polycarbonate cladding, blockwork wall and netting - are not permanent solutions to the design of this stadium, which as a development is of significance locally and regionally, but nonetheless their detailed design will need to be agreed, and in order to facilitate this further information will be required.

### 7.30 **Highways and Transport – (Revised Submissions)**

The previous Highways comments are still valid for this application. However, we wish to add the following to the conclusion:

- **Although the proposal is for a phased development, which is different to the proposal the Inspector considered, there remains a very small timescale between the development phases, therefore all of the highways works must be completed before the development is in use, this includes:**
  - **Signalisation and some widening to the Sutton Road / Eastern Avenue roundabout similar to Cuckoo Corner.**
  - **Signalisation to the Royal Artillery Way/Eastern Avenue/Hamstel Road roundabout, similar to Cuckoo Corner.**
  - **New spine road and mini-roundabout within the site linking Sutton road and Fossetts Way.**
  - **New signalised access junction on Eastern Avenue leading to the site.**
  - **Contribution of 5% of the total cost to the works at the Bell junction.**
  - **To cater just for football matches the Cuckoo Corner signal timings to be changed by taking time from Victoria Avenue and adding time to the Priory Crescent approach and some to the Prince Avenue approach – to be kept under review.**
  - **To provide a gating strategy to be agreed with the Council to ensure that exiting times from the development are varied.**
  - **To provide a signalised pedestrian crossing on the northern arm of the Eastern Avenue / Sutton Road roundabout. This**

**shall be linked with the gating strategy.**

- **The major highway works that are required for this development to proceed, along with the long lead times for utility works could cause major congestion over a long period of time on the highway network. Therefore, it is not acceptable to have the major highways works and utility works being undertaken over a number of different phases, but instead to undertake the full highways works at the same time to cause minimal delay on the highway network.**

(original submissions) SUFC subsequently carried out further traffic surveys, including traffic turning count movements and queue length surveys at a number of junctions. This up to date data has been used to inform the Council's VISSIM model which SUFC commissioned Atkins to carry out. Atkins has provided a report setting out the outcomes of the modelling and proposals for mitigation

Since the previous TA was submitted, London Southend Airport Station is now open. As a result, it is considered that the TA should revisit the pedestrian routes between the Airport Station and the site, especially for match days. As this information has not been provided the Travel Management Strategy will need to include, prior to commencement, a comprehensive re-assessment of arrival routes and departure routes and times for all travel modes.

The planning application does not include a detailed Travel Plan. The applicant has suggested that the implementation of a Travel Plan will reduce car use attracted to the site by 15%. This must be monitored to ensure this target is achieved and any further mitigating measures identified and agreed. A comprehensive Travel Plan will be required, which will also need to address the staff parking needs **[Officer comment: a travel plan is required as part of the S.106 Agreement]**

The scheme includes a new link road running between Sutton Road and Fossetts Way providing pedestrian and cycle access to the site. The key pedestrian access route to the Stadium follows the western boundary of the site. Controlled pedestrian facilities are proposed across Eastern Avenue to the site as part of the new signalised access junction. In addition pedestrian crossing facilities should be provided on all arms (subject to detailed design) as part of the Eastern Avenue / Royal Artillery Way / Hamstel Road and Eastern Avenue / Sutton Road junctions.

Parking is located to the west of the retail units, to the south west of the stadium and to the north and north-west of the stadium. Vehicular access/egress to the stadium and associated parking will be from a new roundabout on the new link road. Access to the retail park will be from Eastern Avenue by way of a new all-movement signal controlled junction with pedestrian facilities. The modelling results, which are discussed below, have confirmed that highway works are required at the junctions of Eastern Avenue / Sutton Road and Eastern Avenue / Royal Artillery Way / Hamstel Road.

### *Transport Modelling and Mitigation Measures*

VISSIM transport modelling has been carried out during the Saturday PM peak between 16:30 and 18:00. This time was chosen for the modelling as it offered the highest traffic flows and therefore a robust model. Modelling has been carried out for the matchday scenario for 2013, which is the opening year of the development and non-matchday for 2023 - ten years after the year of opening. Modelling up to 2023 provides a robust future model which adds a 14% growth rate to the traffic flows.

The initial transport modelling results showed that the development would cause a number of junctions to operate over capacity. There were especially poor results at the junctions of Eastern Avenue / Sutton Road, Royal Artillery Way / Hamstel Road / Eastern Avenue and at certain times at Cuckoo Corner roundabout.

It is recommended that Eastern Avenue / Sutton Road and Eastern Avenue / Royal Artillery Way / Hamstel Road roundabouts are signalised in a similar way to that of Cuckoo Corner roundabout with full pedestrian facilities. Both junctions require physical improvements in order to provide sufficient capacity. The design of these junctions shall be agreed at the detailed design stage but shall be similar to that shown in Atkins' drawing numbers 5107239/001 and 5107239/002.

The modelling showed that Cuckoo Corner could be affected during the last half hour, 17:30-18:00. As a result of the football related traffic travelling west, the Priory Crescent approach is much busier and queuing is shown back to Sutton Road roundabout. Therefore, it is recommended that for this period of time on a match-day the Cuckoo Corner signal timings should be changed by taking time from Victoria Avenue and adding time to the Priory Crescent approach and some to the Prince Avenue approach. This will be kept under review.

The modelling showed that the implementation of a gating strategy for the development car parks will help to improve the operation of the road network on match-days. This will prevent football traffic from exiting when the queue along Sutton Road north reaches a certain distance to be determined by the Council. This also holds all approaches on Eastern Avenue / Sutton Road roundabout. It is expected that SUFC will provide incentives to encourage spectators to delay their departure after the game which will help to minimise the impact. **[Officer comment- these issues will be controlled as part of Travel Management Strategy]**

The above mitigating measures have been assessed for the Eastern Avenue corridor and would benefit both the Matchday and Non-Matchday scenarios. The signalisation of the Eastern Avenue / Sutton Road and Royal Artillery Way / Eastern Avenue junctions is predicted to benefit the operation through the control

of green times on each approach. The signalisation also enables an additional gating strategy that could be utilised on Matchdays

The traffic modelling showed that the development has a detrimental impact at the junction of The Bell. The development results show an increase in delay of approximately 15 seconds per vehicle between 16:30 and 17:00 on a Saturday for the Design Year of 2023. From the modelling evidence and the overall delay that this development has on the junction it is recommended that a 5% contribution towards proposed improvements at The Bell junction is sought. These improvements are currently being designed and costed in more detail by the Borough Council and this contribution will be required to support the finally approved scheme, subject to other funding being put in place before 2023. The current scheme estimate is £5m

As part of this modelling the Sainsbury Roots Hall development was also included and it was found that the Victoria Avenue corridor suffers an increase in delay for both match-day and non-match day scenarios and for 2013 and 2023. This should be revisited under the proposals for the Roots Hall development.

#### *Requested Conditions*

#### Use of the site

The use of the site shall not commence until the new access road, new spine road and the highway works involved in signalling the roundabouts of Eastern Avenue / Sutton Road and Eastern Avenue / Royal Artillery Way / Hamstel Road are complete. **[Officer comment: this is covered by the S.106 and existing conditions]**

The new link road network onto the Sutton Road / Temple Farm roundabout shall be completed before any work is commenced on the car park

#### Parking and Lighting

Car park plans shall need to be detailed and agreed with the Council.

Prior to commencement of development, a Car Park Management Strategy shall be submitted to and approved in writing by the Council. This is to include details of varied departure times for pedestrians and vehicles after matches, details on the gating strategy and the barrier to control and limit movement from Smithers Chase to the car parking area

Prior to commencement of development of the residential units, a minimum of one parking space per unit shall be provided along with secure motor cycle parking and secure covered bicycle parking to serve those units in accordance with plans submitted to and approved in writing with the Council. The parking spaces shall be permanently reserved for the parking of occupiers and visitors of these premises only and not used for other purposes. The Stadium car park shall be used for the parking of cars, coaches and buses only on match days and shall not be used for any other purpose unless previously agreed by the Council.

A CPZ area shall be provided around the development site to prevent overflow vehicles from parking on residential roads; both matchday and non-matchdays shall be considered. It is the owner's responsibility to provide funds to the Council in order to enforce the CPZ area. The precise extent of the CPZ is to be agreed, subject to public consultation and advertisement of appropriate orders and notices.

All cycle storage should be safe, secure and sheltered. The location and details of the cycle storage needs to be clarified.

The location and details of the motor cycle parking needs to be clarified.

With a development of this type it is reasonable to expect provision of parking areas for TV crews and the general media, and also accommodation to be provided for the police. The Police have requested specific parking proviso be made available to them. Such parking has not been provided. Allocated parking for the above uses should be shown on revised plans, prior the grant of any planning permission.

Prior to commencement the details of and locations of street lighting and car park lighting shall be agreed with the Council.

### Servicing

Prior to commencement of development a Servicing Strategy shall be submitted to and approved in writing by the Council.

From the interpretation of the plans, it appears that loading/unloading is provided for with segregated stopping and passing lanes. The main comment on this arrangement is that it appears to only work for parallel servicing requirements. If any vehicle, especially an articulate is required to undertake perpendicular unloading it is not practicable to carry out this manoeuvre. It is recommended that the servicing arrangements be reviewed and if only parallel loading/unloading can take place evidence is provided that indicates that the potential occupiers are aware of this situation and will accept this layout design.

### Highway Infrastructure

Agreement will be required from the Council in respect of the detailed design of the site and the surrounding highway layout.

Prior to commencement of development full details of the proposed pedestrian/cycle accesses to the site and within the site shall be submitted and approved by the Council.

It is not clear as to how the cycle facilities within the site integrate with the wider cycle network. For example, there is an existing footway/cycleway along the

south side of Fossetts Way which will need to be integrated within the site plans.

Clarification needs to be sought to ensure that cycle routes and signage provide a safe and convenient route to the site from the wider area. For example, the proposed link in Jones Memorial Ground will require Council approval (subject to any covenants etc) and extension using the Waitrose site.

The operation and design and signal timings at the new access junction, Eastern Avenue / Sutton Road, Eastern Avenue / Royal Artillery Way / Hamstel Road and Cuckoo Corner will need to be agreed at the detailed design stage.

It should be noted that road humps are not a particularly attractive feature where buses need to travel especially near stops. It is recognised that passengers falling inside buses and injuring themselves is an existing problem on the public network. If traffic calming is required the road humps should be changed to raised tables.

AutoTrack modelling to be carried out to ensure that all vehicles can manoeuvre into and within the site safely. Concern has been expressed about buses turning left from Eastern Avenue into Bournemouth Park Road.

Improvement of the public footpath to the north of the proposed training pitches between Sutton Road and the easternmost boundary of the site between this footpath and Clements Way shall be submitted to and approved by the Council.

### Public Transport

It is not clear where the shuttle bus will turn around in order to use the stop shown on the drawing for the southbound direction. This needs to be further explained. New bus stops are to be provided in Fossetts Way adjacent to the site, at locations to be agreed.

### S.106

Since the submission of the previous application the S.106 contributions have changed. See below:

- Service 13 no longer operates this should be changed to route 29 (page 5)
- Priory Crescent / Cuckoo Corner roundabout works have been completed by the Council and therefore a contribution of this cost for highway works to this junction is no longer required. However, this junction shall need the signal cycle timings adjusted in order to cater for the development traffic. (page 9)
- Needs to refer to route 29 instead of route 13 – route to be extended into Fossetts in both directions (page 10)
- The shuttle bus routes are to be kept within the S.106 (page 12).
- A contribution of £25,000 is still being sort for VMS signage (page 13).
- Highway work comments are still valid (page 23).
- A contribution of £20,000 for webcams / cameras to link to the Council's

Traffic control centre on Cuckoo Corner, The Bell, Eastern Avenue / Sutton Road roundabout and Eastern Avenue / Royal Artillery Way / Hamstel Road roundabout (page 25).

- The following is to be included regarding the Travel Plan (page 26):
  - Prior to commencement an up to date Travel Plan action and target document shall be provided to the Council to include all aspects on the Southend Travel Plan Framework.
  - At three months of the development opening, travel monitoring surveys shall be carried out in order to collect the actual flows of the users of the site. This shall then be used to provide an up to date Travel Plan including updated targets and actions. The Travel Plan including the targets shall be updated yearly to include the latest travel survey results for all visitors and staff who access the site; however, the Council has the right to ask for a 6 monthly update report if necessary.
  - The Travel Plan will need to be monitored by the Council to ensure that the targets and actions are being met. The Council ask for a contribution for monitoring of £3,000 per year for five years after the opening of the development.
- A Travel Management Strategy shall be required (page 27).
  - As part of the Travel Management Strategy the owners shall carry out yearly traffic surveys for at least 5 years on Eastern Avenue / Sutton Road, Easter Avenue / Royal Artillery Way / Hamstel Road, Cuckoo Corner, The Bell and the new access road to the site. This data shall be provided to the Council who may use this data to ask for changes to improve traffic movement.
- The CPZ area still applies along with the owner's responsibility to provide funds to the Council in order to enforce the CPZ area.
- A contribution for the Cuckoo Corner roundabout is sought for the value of £7,500 for the changes and monitoring of the signal cycle times. The other highway works including the new Eastern Avenue access signalised junction, the Eastern Avenue / Sutton Road roundabout and the Eastern Avenue / Royal Artillery Way / Hamstel Road roundabout, shall be covered under the S278 agreement (page 29 / Section 14)
- Page 29 / Section 16 –
  - Pedestrian signage contribution - £10,000
  - Cycleway signage contribution - £100,000
  - VMS contribution - £25,000
- The period of procurement should be for 10 years instead of 5 years to be in line with the B&Q application. The owners shall liaise with the relevant bus operators to provide an East to West bus service and the details of which shall be agreed and approved in writing by the Council. The list of conditions is to remain (page 30/31 / Section 18)
- The period of procurement should be for 10 years instead of 5 years to be in line with the B&Q application. Route 13 bus service no longer exists so this should be rephrased to (page 31 / Section 19)-:
  - The owners shall consult with the relevant bus operators and the Council to provide a suitable service for the development to ensure sustainable links are provided. The details of this shall be agreed



and approved in writing by the Council. The list of conditions is to remain.

- Shuttle bus comments are to remain (page 32).
- A contribution of £20,000 is sought for cycle signage to include on road cycle lanes on Bournemouth Park Road and Eastern Avenue (page 34)
- Pedestrian signage contribution is still required (page 35)
  - The Priory Crescent contribution has changed to a contribution for Cuckoo Corner roundabout to monitor and adjust the traffic signal cycle timings and a contribution to The Bell junction improvements
  - VMS contribution should be to provide up to date traffic information to the public about the traffic network, which shall especially be utilised on match-days.
- Travel Plans need to be developed for the non-match day and match day and for all of the elements of the site not just the elements listed below (page 37 Section 2).
- The Travel should cover all visitors to the site including, staff, shoppers, residents, supporters etc.
- Travel targets shall be reviewed using the results of the initial travel surveys which shall be carried out at 3 months of opening of each of the areas of the development. Modal split targets will be calculated from surveys carried out each year; however, the council has the right to ask for more travel monitoring surveys to be carried out (page 38 / Section 8)
- Fifth Schedule Page 40 – This still stands. Page 41 section 10 – Provide stewards to manage the zebra crossing on Sutton Road while the gating strategy is being utilised.
- The TMS shall also include details of varied departure times for vehicles, pedestrians etc. and details on the gating strategy.
- To include the extent of the surrounding residential area that be brought under matchday parking control.
- Page 43 – This shall remain.
- Page 44 – Add, Signalised layout of Eastern Avenue / Sutton road roundabout to be approved by the Council.
- Signalised layout of Eastern Avenue / Royal Artillery Way / Hamstel Road to be approved by the Council.

#### *Additions to the S.106*

Four RTP1 boards to be displayed near the hotel, residential units, main road and the bus stop. £45,000

A contribution of £60,000 is sought to provide bus shelters at the bus stops. This may need to be reviewed according to service level.

Webcam / cameras - £15,000

Cuckoo Corner - £7,500

A contribution of 5% of the overall costs of the works for the Bell junction, which is approximately £250,000, is sought. This contribution could be reappraised should further elements be added to the development.

TP monitoring - £3,000 per year for 5 years

**[Officer comment – it is considered reasonable and necessary to amend**

**the S.106 agreement in light of the changes that have taken place within the highway network since the original application was granted permission in 2008. The changes which are considered reasonable are outlined included in the recommendation in Section 10 of this report]**

*Section 278 Agreement*

For the development to go ahead, works will need to be carried out on the existing adopted highway and therefore an agreement will need to be completed between the developer and the Council. The developer will need to agree to enter into an appropriate Highway Agreement which will include a supervision fee of 10%.

The Section 278 agreement will require close liaison with the Council to ensure minimal impact to the transport network. The Council will require a comprehensive traffic management and construction phase plan. **[Officer comment – this matter is covered within the existing S.106 Agreement.]**

*Conclusion*

The measures that are described within this report help to reduce the effects of the proposed developments generated traffic especially for the non-match day, however, for the match-day some junctions may still operate over capacity but this has been accepted by the Planning Inspector in the last submission. However, it is important these measures are provided in their entirety to mitigate any impacts.

- 7.31 **Environmental Health** – (revised plans) It is understood that this application was approved by the Council's Development Control Committee and subsequently by the Secretary of State with conditions under application SOS/06/01300/FUL.

There are no adverse comments subject to compliance with and imposition of the conditions imposed by the Planning Inspector. However, the following condition shall be added in respect of the proposed bund to be located along the western side of the ground (i.e. in place of the proposed omitted west stand).

Request informatives relating to: lighting, noise insulation, food and safety work laws, need to comply with other regulatory frameworks, need to comply with the Housing Act, the need for a premises licence, need to comply with contaminated land regulations.

- 7.32 **Enterprise and Innovation-** (revised plans) The Local Economic Assessment (2010) and Economic Development and Tourism Strategy (2010) both identify six key sectors for Southend's economy – two of which are tourism and retail.

The proposed development has the potential to add to both these offers through sports/leisure visitors and retail which is complementary to and supportive of the town centre.

However, the addition of out of town retail floorspace without supporting the town centre risks harming both sectors. As shoppers are attracted away from the

town centre existing retailers will cease to invest in their stores and create a downward spiral for retail on the High Street. This in turn will negatively impact upon the tourism industry as the town centre area (including the High Street and central seafront) has less to offer by way of retail and a less attractive and vibrant environment to spend time in with increased voids and reduced activity.

The face of the High Street is changing but it is still recognised as a community hub and requires some support to enable this role to continue – as seen in the Portas Review. This has also been recognised elsewhere in Essex: Tendring Council has recently approved a supermarket in Walton on the Naze off the High Street but has also put in place measures to support the High Street and equip it to survive through its S.106 agreement which includes money for town centre initiatives, public transport and both financial and resource support for other areas such as town centre signage and local employment.

While supportive of the jobs the development will create and the additional spend through sports visitors and eventually those who stay in the hotel this cannot be at the detriment to other areas of the town simply displacing economic impact from one part of Southend to another but instead routes to achieve maximum economic and social gain must be taken and the High Street supported rather than diminished

7.33 **Building Control** – (original plans) no comments

7.34 **Registrar of Cemeteries** – (original plans) no comments

7.35 **Town Centre Manager** – (revised plans) When considering this application priority should be given to the Government's 'Town Centre First' Policy and the recent Mary Portas Review which both highlight the need to put town centres first and challenge the need for further out of town developments which will have a adverse impact on the viability and vitality of town centres. The NPPF 2012 also recognises that town centres are at the heart of local communities and local planning authorities should support their development and viability. Positive steps should be made to ensure town centres do not decline in the future and encourage economic activity.

Southend town centre has a diverse retail mix, with large chains, independents and a growing cafe culture and has an important role to play in the growth of its local community. Major investment by the local authority and private investors has ensured the town centre continues to thrive. The town centre also has a Town Centre Partnership made up of a range of stakeholders including the Council and has recently gained the status of a Business Improvement District as promoted by the Portas Review and the Government. Therefore both business and the Council have and continue to work tirelessly to ensure Southend town centre can compete with their neighbouring towns and provide the local community with a thriving local hub.

As there are a number of out of town developments already in existence within the borough and further afield selling bulky goods which compliment the town

centre offer any further out of town developments which aim to attract existing retailers away from the town centre would definitely have an adverse effect on the town centre in the future. Major stores such as Marks & Spencer, Next etc would not continue to invest in their town centre stores which in turn will increase the empty units. Inward investment opportunities in the town centre could be severely impacted in the future as major brands look to relocate in competitive retail areas.

Sustainable forms of retail development should be concentrated within the town centre first. To mitigate any decline in footfall, investment will be need in a variety of areas such as:-

Highway improvements  
Enhanced signage scheme  
Shop front grants  
Inward investment promotions  
Accessibility enhancements  
Improved cleansing regime  
Safety initiatives  
Shop front dressing for empty units

With the introduction of Town Teams, the above areas of need are always a priority however, in Southend's case the long term impact of the proposed development will require these priorities to be implemented sooner rather than later which would be unaffordable.

## **8.0 Public Consultation**

8.1 (original plans) 2366 people directly notified, (neighbours who bound the site and those who responded to the original (2006) application) advertisement published and site notices displayed.

24 letters received (2 from the same address) objecting on the following grounds:

- Increase in traffic, resulting highway safety issues and traffic congestion
- All citizens east of the Bell will be adversely affected by the development because of increased traffic
- Insufficient parking
- No justification for more shops when there are empty shops in the High Street
- Detrimental to High Street trade
- No need for another supermarket
- The development will take trade from other businesses and will not create new jobs
- The applicant should adhere to the time limits previously set down by the Secretary of State
- At the time of the original application the applicant said he would proceed with haste, but delays mean it could be 8 years till completion.
- Development is out of scale with the area

- Noise and disruption to Local residents day and night.
- The crematorium must be protected from sound and light infringement
- Object to siting of stadium adjacent to the crematorium
- Don't really understand what it proposed
- Don't know why I have been consulted
- A rare orchid has been found in this area
- The application should be considered at Full Council
- The team is not doing well enough to warrant a 22,000 seater stadium.
- Don't need another hotel in out of town Southend
- Another health club will jeopardise the health of existing health clubs in the town
- Don't want the development in this area
- The applicant should look for another site
- The site is part of the green belt
- Comments made re the finances of the club

## 8.2 7 letters of support received

- (original plans) A letter has been received from Gerald Eve on behalf of the owner of the Royals Shopping Centre (Orchard Street) **objecting** to the proposals, their concerns are summarised as follows:
  - Representations were previously made in respect of application 06/01300/FUL and 09/01203/FULM and representations were made to the Proposed Submission Development Management DPD.
  - It is a matter of fact that the retail proposals for Fossetts farm would adversely impact upon Southend Town Centre, which resulted in a contribution of £6m to town centre regeneration being agreed as part of the S.106.
  - changes in local and national policy since 2008 and continuing economic uncertainty has resulted in changes that have implications for retail development in Southend which need to be fully appraised
  - cut backs in the road development programme for the area has potentially significant implications of the acceptability of the proposals , with serious concerns raised as to the whether the transport infrastructure will be sufficient to serve such a to serve such a development.
  - The Inspector considered that an early implementation date was one of the important features that operated in favour of the proposals. An extension of the time would serve to prolong the uncertainty that has already helped to dissuade investment on Southend town centre in the last three years. There has been an

increase in vacant units which almost exactly equates to the amount of retail floorspace proposed at Fossetts Farm. Certainty is one of the key factors in determining investment

- The continued decline of the town centre is also in part caused by the uncertainty regarding if and when the £6m Town Centre Regeneration Sum” will be paid.
- There have been Local and National Policy changes against which the proposals should be assessed, in particular Development Management DPD, PPS4. The applicant has failed to do this adequately. The application is contrary the provisions of the development management DPD, Core Strategy Policies and PPS4 in relation to the location of retail premises. The ability for the St Johns Quarter to come forward for development should be re examined
- these changes mean that the application do not accord with recent policy
- The highways situation within the borough has changed significantly since the 2008 approval and therefore a revised TA should be submitted setting out the current highways position. [Officer comment – a revised TA has now been submitted]

8.3 Revised plans - Orchard Street UK (owners of the Royals Shopping Centre) has expressed concern about any removal or reduction in the Town Centre Contribution related to the proposals for Fossett’s Farm. In addition to representations objecting to the this planning application which were made last year, the Council has been advised that Orchard Street are to issue a further letter objecting to the proposals focussed on the non-payment of the Town Centre Contribution. In light of the fact that the Football Club has now determined very late in the application process to now to make a reduced offer, these objections are to be revised. It is understood that representations by Orchard Street UK will now be issued following the publication of the committee report and will therefore be considered in an addendum committee report.

8.4 (original plans) A letter of **objection** has been received from Turley Associates on behalf of Waitrose Ltd (WL) objecting to the development. The letter is summarised as follows:

- During the course of the approved application, WL withdrew their objections and their involvement in the public inquiry after securing from the applicant necessary commitments relating to car parking management, highways improvements and pedestrian linkages. These commitments were bound into planning conditions and legal agreements associated with the eventual permission. These included a legal agreement made on 28 September

2007 between WL and the applicant which specifically addressed the funding of a car park management system at the Waitrose store car park.

- WL are extremely concerned that the applicant has yet to make contact with them to discuss the measures required to mitigate matchday impacts on their store operations. Such measures may now need, given the passage of time, to differ from what was agreed with the previous permission. In the absence of this dialogue and an updated or revised legal agreement being made to address this issue, WL object to this application.
- WL also object to this application pending confirmation that:
  - drawings depicting the same junction improvements to Eastern Avenue / Fossetts Way are approved as per 06/01300/FUL;
  - all the same planning conditions are imposed as 06/01300/FUL; and
  - legal agreements made under 06/01300/FUL where the Council are a party are either varied or created afresh to replicate the existing.

(revised plans)

- It is requested that if the Committee resolves to approve this application then Officers will ensure all relevant planning conditions and legal controls are re-imposed. We will note here that the applicant has confirmed to our client that they agree that a 'Car Parking Management Agreement' would remain binding, were the Committee to grant planning permission. While we have been alerted to this Committee hearing in advance, the time available to us has not been sufficient for us to consider in detail how circumstances differ today from when the application was most recently heard by the Committee (January this year). I note that the applicant's retail consultants GL Hearn have similarly emphasised the challenges posed by these timescales. We now provide the Council with a note from Glanville Consulting Engineers (December 2012) that sets out concerns with that VISSIM assessment.:
- If the Committee decides not to make a resolution at this 20 December hearing then this may allow our client's team the opportunity for a more comprehensive response to be made.
- We are aware that the Council's Development Control Committee previously resolved to grant approval to the extension of time limit application on 31 January 2012. This resolution was informed by a VISSIM report by Atkins dated December 2011 which simultaneously considered both the above application and a separate application for a new scheme which is also separately being considered by the Council (11/00965/FULM).

- We did not become aware that the VISSIM report had been issued until after the 31 January Committee decision was reached on the Renewal Application – therefore we were unable to make representations at that time to express our concerns about the conclusions made in that study. Had we been able to express our concerns these would have been largely as follows:
  - the proposed highway alterations are insufficient to accommodate non-matchday traffic by 2023
  - Matchday post-match Marshall control of the pedestrian crossing over Sutton Road North will prove impractical and unworkable
  - Matchday post-match traffic diverting via Fossetts Way and the Eastern Avenue/Fossetts Way roundabout has been under-estimated
  - Matchday pre-match traffic impact has not been adequately considered
- Had we had the opportunity to express these views we would have emphasised to the Council's Committee in January 2012 that they should consider requiring the applicant to:
  - Undertake and agree validated pre-match traffic modelling prior to determination of the application
  - Undertake and agree validated further post-match modelling prior to determination of the application to take account of: rat-running via Fossetts Way and the Eastern Avenue/Fossetts Way roundabout constraining all football traffic to leave via Sutton Road (i.e. block post-match exit via Fossetts Way)
  - Subject to results of additional traffic modelling (see above), constrain all football traffic to leave via Sutton Road (i.e. block post-match exit via Fossetts Way)
  - Provide highway alterations sufficient, as a minimum, to accommodate non-match traffic such that congestion in 2023 is no worse than predicted without the development ,
  - Provide additional highway alterations sufficient to accommodate matchday, traffic at least at the Eastern Avenue/Fossetts Way and Sutton Road/Eastern Avenue junctions such that congestion is no worse than predicted on non-matchdays
  - Provide additional highway alterations at least sufficient to partially accommodate matchday traffic at the other junctions within the study area.

8.5           • (original plans) A letter has been submitted on behalf of Essex Golf Club,



raising no objections but requesting reinforcement of the obligations in respect of improvements to the transport system in around the site.

8.6 Revised plans - (31 neighbours notified, those who bound the site, plus those who submitted comments following initial consultation). **It should be noted that the period for consultation does not expire until after the meeting (26<sup>th</sup> December).**

8.7 Three letter of objection (two from the same address) received relating to the following issues:

- Unhappy that the Committee meeting is to be held prior to the expiry of the consultation period.
- All previous objection stand
- Noise because of removal of the west stand
- Light pollution
- Impact on the Gardens of Remembrance
- Programme of works far in excess of what was originally envisaged which will cause prolonged distress
- The time limit imposed by the Inspector should stand

## 9.0 Relevant Planning History

### *Fossetts Farm*

9.1 2011 – Current application - 11/00965/FULM Revised planning application for demolition of a nightclub and football training facilities; 67 residential units, 22,000 seater stadium, erect A1 retail units totalling 18,878sqm gross (including 1,400sqm gross of food); erect three A3 units of 909sqm floorspace, erect D2 health club of 2,370sqm floorspace, a casino of 2,098 sqm floorspace, stadium hub cafe (A3) and bar (A4) of 1,307 sqm floorspace; training academy of 3,732sqm of floorspace, layout of parking and cycle spaces, associated landscaping and access works (Amended Proposal)

9.2 2011 - 11/00479/RSE. -Request for Screening Opinion. Screening opinion issued, no EIA required. Demolish nightclub and football training facilities, erect 22,000 seater football stadium including 114 bedroom hotel, conference floorspace, players hostel, food and drink concessions, bars and other ancillary facilities, erect 67 flats with basement parking, erect retail units (Class A1) totalling 16,400 sq metres of floorspace of which at least 20% shall be restricted to bulky/DIY goods, erect restaurant (Class A3) comprising 279 sq metres of floorspace, erect health club (Class D2) totalling 3205 sq metres of floorspace, lay out parking and cycle spaces and associated landscaping and form vehicular accesses onto Eastern Avenue and Fossetts Farm Link Road - Renewal of application 06/01300/FUL.

9.3 2010 - 10/02179/RSO Request for a Scoping opinion. Scoping Opinion issued. Relocation of Southend United Football Club/hotel and retail development: Revisions to phase 2 the retail and leisure element comprising: Replacement of

some of the A1 non food floorspace by approximately 1,400Sqm retail floorspace within unit AA; increase in gross retail floorspace of overall 14%, Three A3 units comprising 839 sqm floorspace; Stadium A3/A hub of 1254 sqm with two units; A football academy of 3578sqm at first floor, casino 2139sqm at first floor, amendments to retail/leisure car park.

- 9.4 2008 – Planning Permission Granted for demolition of a nightclub and football training facilities; erection of a 22,000 seater football stadium including a 114 bedroom hotel, conference floorspace, players hostel, food and drink concessions, bars and other ancillary facilities all contained within the stadium; erection of 67 flats<sup>1</sup> with basement parking spaces; erection of A1 retail units totalling 16,400m<sup>2</sup> floorspace of which at least 20% shall be restricted to bulky/DIY goods; erection of an A3 restaurant comprising 279m<sup>2</sup> floorspace; erection of a D2 health club totalling 3205m<sup>2</sup> floorspace; lay out of parking and cycle spaces and associated landscaping; and formation of vehicular access to Eastern Avenue and to the Fossetts Farm link road. SOS/06/1300/FUL.

## 10 Recommendation

### 10.1 Members are recommended to

- a) **DELEGATE to the Director of Enterprise Tourism and the Environment, the Acting Head of Planning and Transport or Group Manager of Development Control & Building Control to GRANT PLANNING PERMISSION subject to expiry of the publicity period and subject to completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and all appropriate legislation to secure the following:**

- **Contribution of 5% of the overall costs of the works for the Bell junction, (which will equate to approximately £250,000)**
- **A contribution of £7,500 for the changes and monitoring of the signal cycle times for the Cuckoo Corner roundabout**
- **Retention of the existing training pitches until the replacement pitches have been laid out and brought into use**
- **No occupation of the retail units until the stadium has reached practical completion**
- **Retail units not to be constructed above footplate level until works for the excavation of the bowl of the stadium to Pitch level together with the works to provide the foundations of the new stadium and construction of 75% of structure of the concourse is certified as complete**
- **No fitting out works of the retail units until such time as Phase 1a of the stadium has been certified as complete**
- **The hotel shall have been constructed and fitted out for use within 12 months of practical completion of the stadium**
- **Provision of 30% affordable housing on site or on an alternative**

agreed site (Roots Hall)

- Highways works to be carried out
- Spine Road to be completed prior to occupation
- Payment of the costs of any traffic regulation order
- First 100 metres of either end of the spine road to be constructed prior to commencement of development
- The rear service road to be constructed base course level and thereafter to be used as the sole access and egress for construction of the residential development
- Any retail firm or business trading in the town centre shall keep its existing Two centre premises open to trade to the public for a minimum of 5 years
- Phasing of the development in accordance with the applicants submitted programme of works:

<i>Element</i>	<i>Commence</i>	<i>Complete</i>
Stadium (Phase 1A)		12 months after commencement
West Stand and Hotel (Phase 1B )	6 months after commencement of Phase 1a	18 months after commencement
Residential (Phase 3)	After completion of Phase 2	2 years after commencement
Retail (Phase 2)	6 months after commencement of Phase 1a	18 months after commencement

- Town centre regeneration sum (£2.25m). £1.45m to be paid on commencement of development and £800k to be paid on commencement Phase 2 (retail).
- CCTV provision for the site
- Off site play area contribution (£258,000 index linked from 2008)
- Travel Plan to be submitted and implemented (including staff travel plans)
- Travel Management Strategy to be submitted and implemented. The Travel Management Strategy will include, prior to commencement, a comprehensive re-assessment of arrival routes and departure routes and times for all travel modes
- Details of provision of fire hydrants to be submitted
- Off site community and Leisure facilities contribution (£51,500 index linked from 2008)
- Schedule Ancient Monument Payment (£10,000 index linked from 2008)
- Cluny Square and Southchurch Road Contributions (£60,000 and £40,000 index linked from 2008)
- Signage contributions for Pedestrian signage (£10,000 index linked from 2008; cycleway signage (£100,000 index linked from 2008,

- variable message signage (£25,000 index linked from 2008)
- Waste management Plan
- Provision of Shuttle buses
- Crematorium Landscaping contribution (30,000 indexed linked from 2008)
- Jones Memorial Ground Contribution (105,000 index linked from 2008)
- Extension of bus route 29
- Provision of and East to West bus service
- Phasing of the development - The West stand (Phase 1B) shall be commenced within 6 months of commencement of the Stadium (Phase 1A). The retail development (Phase 2) shall be commenced within 6 months of the commencement of Phase 1A.
- S.106 Monitoring contribution (£10,000)

10.2 b) The Head of Planning and Transport or the Group Manager (Development Control & Building Control) be authorised to determine the application upon completion of the above obligation, so long as planning permission when granted and the obligation when executed, accords with the details set out in the report submitted and the conditions listed below:

- 01 The development hereby permitted shall begin not later than 3 (three) years from the date of this decision.

**Reason:** Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 02 Prior to commencement of construction of any building within the development elevations of that building at not less than 1:100 along with annotated details of materials (including samples) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

**Reason:** In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, Borough Local Plan 1994 policy C11, and SPD1 (Design and Townscape Guide).

- 03 Prior to commencement of development full details of the proposed pedestrian access between the Stadium and proposed training ground, for that part of the development lying within Southend Borough, shall be submitted to and approved by the Local Planning Authority

**Reason:** To ensure satisfactory pedestrian linkages between the sites and in the interests of sustainability, and amenity and highways safety,

in accordance with East of England Plan 2008 policy T8, ENV7 DPD1 (Core Strategy) 2007 policy KP2, CP4 and CP3, Borough Local Plan 1994 policy C11 T13 and SPD1 (Design and Townscape Guide).

- 04** Prior to first occupation of any part of the development details of all external lighting and floodlighting for each implemented phase of the development, including hours of illumination shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in strict accordance with the approved lighting scheme. No additional external lighting visible from outside the site shall be installed within any part of the site without the prior approval of the Local Planning Authority.

**Reason:** To protect the amenities of neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy E5, C11 and U2.

- 05** Notwithstanding the provisions of Article 3, Schedule 2, Part 4, Class A and B; of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the stadium, hotel and retail car parking shall not be used for the siting of moveable structures, works, plant or machinery and shall not be used for fetes, boot sales, BBQ's or any festival, function or fund raising event whether or not incidental to the approved use, including any such use for any temporary period without consent in writing from the Local Planning Authority.

**Reason:** To ensure that the development is completed and used as agreed and to ensure that it meets the requirements of DPD1 (Core Strategy) 2007 policies KP1, KP2 and CP2.

- 06** No additional mezzanine or other internal floor space shall be created within the retail or D2 units other than as shown on the approved plans and the retail floorspace (other than that contained in the main stadium complex) shall not exceed 16,400m<sup>2</sup> gross internal at any time unless otherwise approved in writing by the Local Planning Authority.

**Reason:** To ensure that the development is completed and used as agreed and to ensure that it meets the requirements of DPD1 (Core Strategy) 2007 policies KP1, KP2 and CP2.

- 07** Not less than four thousand one hundred square metres (4,100m<sup>2</sup>) or twenty per cent (20%) of the total gross floor area (which ever is the greater) shall be used for sale of bulky household goods including DIY, home improvement goods, electrical and gas goods, garden materials and goods, furniture/soft furnishings and floor coverings and automotive

and cycle products.

**Reason:** To ensure that the development is completed and used as agreed and to ensure that it meets the requirements of DPD1 (Core Strategy) 2007 policies KP1, KP2 and CP2.

**08** The ground floor of Unit O shall be used for D2 Use Class purposes only.

**Reason:** To ensure that the development is completed and used as agreed and to ensure that it meets the requirements of DPD1 (Core Strategy) 2007 policies KP1, KP2 and CP2.

**09** Prior to first occupation of the residential units a minimum of one parking space per unit shall be provided to serve those units, in accordance with plans which shall previously have been submitted to and approved in writing by the Local Planning Authority. The car parking spaces shall be permanently reserved for the parking of cars of occupiers, and visitors to the premises and not used for any other purposes, whether or not permitted by the Town and Country Planning (General Permitted Development Order) 1995 (or any other Order amending, revoking or re-enacting that Order). Prior to occupation of the 56th unit full provision shall be made in accordance with the approved plans.

**Reason:** To ensure that satisfactory off-street car parking is provided for occupiers and people using the development and to prevent highway congestion in the interests of amenity and highways efficiency and safety, in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2, Borough Local Plan 1994 policy T8 and T11, and SPD1 (Design and Townscape Guide).

**10** Prior to commencement of development details of numbers and layout of secure motor cycle parking and secure bicycle parking including 30% covered secure bicycle parking shall be submitted to and agreed in writing by the Local Planning Authority in accordance with the Schedule of Development dated 26th September 2007. The development shall be carried out in accordance with the approved plans. The motor cycle and bicycle parking spaces shall be provided for each part of the development in accordance with the approved details prior to first occupation of the part of the development to which it relates. The spaces as approved shall be permanently reserved for the parking of motor cycles and bicycles of occupiers, staff and visitors to the premises and not used for any other purposes.

**Reason:** To ensure that satisfactory secure off-street bicycle and motor cycle parking is provided in the interests of sustainability, amenity and highways efficiency and safety, in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2, Borough Local Plan 1994 policy T8 and T13, and SPD1 (Design and Townscape Guide).

- 11 All necessary vegetation removal shall be undertaken outside the bird-breeding season, March-August inclusive.**

**Reason: To make sure that nesting birds are protected and so protect the biodiversity of the environment, in accordance with the NPPF, East of England Plan policy SS1, ENV1 and ENV3, and DPD1 (Core Strategy) 2007 policy KP2 and CP4.**

- 12 No development shall commence until final details of the flood attenuation measures have been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. Implementation of the development shall be in accordance with such agreed measures and be retained as such thereafter. Such detail shall include rainwater harvesting and incorporate SUDS.**

**Reason: To ensure surface and/or foul water is adequately managed in the interests of flood prevention and pollution control, in accordance with East of England Plan 2008 policy SS1 and WAT4, DPD1 (Core Strategy) 2007 policy KP2.**

- 13 A scheme for the provision and implementation of pollution control to the water environment, both during the construction and operational phase of the development shall be submitted to and approved in writing by the Local Planning Authority. Construction and operation of the development shall be carried out in accordance with the approved details.**

**Reason: To ensure surface and/or foul water is adequately managed in the interests of flood prevention and pollution control, in accordance with East of England Plan 2008 policy SS1 and WAT4, DPD1 (Core Strategy) 2007 policy KP2.**

- 14 Prior to commencement of development details of foul and surface water drainage including surface water attenuation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Such detail shall include rainwater harvesting and incorporate SUDS.**

**Reason: To ensure surface and/or foul water is adequately managed in the interests of flood prevention and pollution control, in accordance with East of England Plan 2008 policy SS1 and WAT4, DPD1 (Core Strategy) 2007 policy KP2.**

- 15 No surface water runoff from impermeable vehicle areas shall be discharged into any surface water sewer unless it has first passed through a petrol/oil/grit facility details of which shall have previously been submitted to and approved in writing by the Local Planning Authority**

**Reason: To ensure surface and/or foul water is adequately managed in**

**the interests of flood prevention and pollution control, in accordance with East of England Plan 2008 policy SS1 and WAT4, DPD1 (Core Strategy) 2007 policy KP2.**

- 16 Prior to commencement of development, details of the identification of 10 “police” parking spaces for match day use shall be submitted to and agreed in writing by the Local Planning Authority, the spaces shall be provided prior to first use of the stadium.**

**Reason: To ensure that satisfactory car parking is available for police parking in the interests of security and in the interests of sustainability, amenity and highways efficiency and safety, in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2, Borough Local Plan 1994 policy T8 and T13, and SPD1 (Design and Townscape Guide).**

- 17 The use of the site shall not commence nor the premises be occupied, until the area shown on the approved plan as vehicle parking, loading and off-loading and turning space for the use of the building to which it relates has been surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on that area or land or in such a position as to preclude its use.**

**Reason: To ensure provision of adequate service space and that the development does not have a detrimental impact on the surrounding highway network in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2 and Borough Local Plan 1994 policy T8.**

- 18 Prior to commencement of development a servicing strategy shall be submitted to and approved in writing by the Local Planning Authority. Such strategy shall indicate where HGV’s that arrive outside of permitted loading and unloading hours are to park. The details approved shall be implemented in accordance with the submitted and agreed strategy.**

**Reason: To ensure that the development does not have a detrimental impact on the surrounding highway network in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2 and Borough Local Plan 1994 policy T8.**

- 19 Other than in cases of emergency no HGV’s shall be loaded or unloaded or service deliveries undertaken outside the hours of 0700 to 1930 hours Mon-Sat and 0900 to 1800 hours on Sundays and Bank Holidays**

**Reason: To protect residential amenity and general environmental quality in accordance with East of England Plan 2008 policy SS1, DPD1 (Core**



**Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy H5, E5 and U2**

- 20 No external storage of goods, packaging, waste or other by-products/detritus shall take place within the site other than in agreed storage containers and facilities**

**Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, Borough Local Plan 1994 policy C11, and SPD1 (Design and Townscape Guide).**

- 21 Prior to commencement of each phase of the development a strategy for separation, storage, recycling and collection of waste for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority, together with details of facilities to be provided for the handling of waste. The waste handling facilities shall be provided in accordance with the approved details prior to occupation.**

**Reason: To protect the environment and provide suitable storage for waste and materials for recycling in accordance with East of England Plan 2008 policy SS1, DPD1 (Core Strategy) 2007 policy KP2 and CP4.**

- 22 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved unless otherwise agreed in writing by the local planning authority. These details shall include, for example:-**

- i. proposed finished levels or contours;**
- ii. means of enclosure;**
- iii. car parking layouts;**
- iv. other vehicle and pedestrian access and circulation areas;**
- v. hard surfacing materials;**
- vi. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);**
- vii. proposed and existing functional services above and below ground (e.g. drainage power,**
- viii. communications cables, pipelines etc. indicating lines, manholes,**

supports.);

ix. retained historic landscape features and proposals for restoration, where relevant.

Soft landscape works shall include details of all the existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development; details of the number, size and location of the trees and shrubs to be planted together with a planting specification, details of the management of the site, e.g. the uncompacting of the site prior to planting, the staking of trees and removal of the stakes once the trees are established; measures to improve biodiversity and details of the treatment of all soft surfaces (including any earthworks to be carried out).

**Reason:** To ensure that the development is satisfactory in terms of its appearance and that it makes a positive contribution to the local environment and biodiversity in accordance with East of England Plan 2008 policy ENV1 and ENV7, DPD1 (Core Strategy) policy KP2 and CP4, Borough Local Plan 1994 policy C11 and C14, and SPD1 (Design and Townscape Guide).

**23 All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation**

**Reason:** To ensure that the development is satisfactory in terms of its appearance and that it makes a positive contribution to the local environment and biodiversity in accordance with East of England Plan 2008 policy ENV1 and ENV7, DPD1 (Core Strategy) policy KP2 and CP4, Borough Local Plan 1994 policy C11 and C14, and SPD1 (Design and Townscape Guide).

**24 No less than 48 hours notification in writing of the start of works on site shall be given to the Local Planning Authority (Monday to Friday only).**

**Reason:** So that any ground disturbance may be inspected for archaeological remains and records made pursuant to Policy C1 of the Southend on Sea Borough Local Plan 1994 and policy CP4 of the DPD1 Core Strategy

**25 During site preparation and excavation works the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow them to observe the excavations**

and record items of local interest and finds.

**Reason:** So that any ground disturbance may be inspected for archaeological remains and records made pursuant, and to Strategy and to avoid damage to archaeological remains on site as set out in Planning Policy Statement 5, East of England Plan 2008 policy ENV6, DPD1 (Core Strategy) policy KP2 and CP4, Borough Local Plan 1994 policy C1, and SPD1 (Design and Townscape Guide).

- 26** No development shall take place within Areas 2 and 3 until a programme of archaeological trenching covering Areas 2 and 3 shown on Wessex Archaeology Plan Y:\TENDERS\T10770\Drawing Office\Report Figs\Setout\06\_12\_15 (the sites of the proposed football stadium and associated infrastructure and the sites of the proposed car parking, balancing ponds and training grounds) and associated evaluation has been carried out, thereafter archiving and monitoring shall be undertaken, all in accordance with the requirement as set out in the method statement dated September 2011 submitted by Essex County Council Historic Environment Management Team.

**Reason:** So that any ground disturbance may be inspected for archaeological remains and records made pursuant, and to Strategy and to avoid damage to archaeological remains on site as set out in Planning Policy Statement 5, East of England Plan 2008 policy ENV6, DPD1 (Core Strategy) policy KP2 and CP4, Borough Local Plan 1994 policy C1, and SPD1 (Design and Townscape Guide).

- 27** The use of the dwellings shall not commence until acoustic insulation against external noise has been installed in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. The noise prevention measures as installed shall be retained at all times thereafter.

**Reason:** To protect the environment of people in neighbouring properties and general environmental quality in accordance with Planning Policy Guidance Note 24, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 28** Prior to commencement of the use of the car park and the new access road on the site adjacent to the Garden of Remembrance a noise barrier shall be provided and installed in accordance with a scheme including the height, length, location, predicted acoustic performance and construction details of the barrier previously approved in writing by the Local Planning Authority.

**Reason:** To protect the environment of people visiting the Crematorium properties and general environmental quality in accordance with Planning Policy Guidance Note 24, East of England Plan 2008 policy

**ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 29 Bars, restaurants and function rooms for providing entertainment by way of music, singing or speech shall not be used for this purpose, until acoustic insulation has been installed, in accordance with a scheme which shall have previously been submitted to and approved in writing by the local planning authority for the protection of residential property and the hotel, against entertainment noise within the new development. The noise prevention measures as installed shall be retained at all times thereafter.**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 30 No spectator events other than permitted concerts and football matches shall take place inside the stadium without the permission in writing of the Local Planning Authority.**

**Reason: To protect the environment of people visiting the Crematorium properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 31 Concerts and testing of concert amplification equipment for levels should not take place when the Crematorium is open for services and in any event the manager of the Crematorium shall be notified of any such event at least 1 calendar month prior to the event taking place unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: To protect the environment of people visiting the Crematorium properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 32 No concert entertainment noise or concert associated P/A use should be audible beyond the site boundary after 2300 hours**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 33 Any concerts permitted are restricted to a maximum of 3 days per calendar year including practice sessions and sound testing, but excluding physical set up of equipment, unless otherwise agreed in**

writing with the Local Planning Authority.

**Reason:** To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 34** The rating level of external noise from ventilation, refrigeration and air conditioning equipment determined by the procedures in BS:4142, should be at least 5 dB(A) below the background noise LA90 determined according to the guidance in BS:4142 at 1 metre from all facades to residential premises and hotel bedrooms. The equipment shall not be installed before details of the acoustic performance of the plant confirming compliance with the afore-mentioned standard has been submitted to the Local Planning Authority and approved in writing. The equipment shall be maintained in good working order thereafter. The rating level should include noise from all sources that will run at a given time and include noise with the plant running at maximum duty.

**Reason:** To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 35** Noise from construction works audible beyond the site boundary or at dwellings on the site occupied before construction works are completed on the site shall only occur between 0730 and 1800 hours Monday to Friday and 0800 to 1300 hours on Saturdays, with no working on Sundays and Bank Holidays.

**Reason:** To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 36** Discharge points and proposed odour control measures for commercial kitchen extract systems shall be submitted for approval in writing to the Local Planning Authority prior to installation and implemented in accordance with the approved scheme.

**Reason** To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 37** The extent of lead contamination within topsoil around the point indicated as WS3 on Figure 2 of the STATS Ltd report, dated 13th February 2007 shall be further investigated and reported to the Local Planning Authority. All contaminated soil from this locality shall be

**segregated and removed from site. Certification of the action taken shall be provided to the Local Planning**

**Authority by a suitably qualified person confirming proper disposal of the contaminated soil and that the site has been made suitable for the permitted end use.**

**No development shall be commenced at the location of the diesel storage tank east of the club house until:**

**a. a site investigation has been undertaken to determine the nature and extent of contamination, and**

**b. the results of the investigation, together with an assessment by a suitably qualified person, and details of a scheme to remove, remediate or contain any contamination, as appropriate, have been submitted to the Local Planning Authority for approval of any scheme for remediation or containment.**

**c. a certificate has been provided to the Local Planning Authority by a suitably qualified person stating that the contamination has been removed or that the remediation or containment has been completed in accordance with the approved scheme and that the site is suitable for the permitted end use. Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation or containment.**

**In addition, if evidence of ground contamination becomes apparent during construction and development, work shall cease at the location of the contamination, the Local Planning Authority shall be notified and action as set out in a to c above shall be set in train.**

**Reason: To ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with the NPPF, East of England Plan 2008 policy ENV7 and WAT4; and DPD1 (Core Strategy) 2007 policy KP2.**

- 38 Prior to first occupation of any part of the stadium building a noise assessment of any public address and piped music system to be used on site and in the Stadium and including details of mitigation measures to protect noise sensitive premises including the Gardens of Remembrance shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 39 Plant used during construction shall comply with the latest EC noise emission requirements. Where piling is required non-percussive techniques shall be used.**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 40 Prior to commencement of development, a dust control plan, including details of control of particulate levels, shall be submitted to the Local Planning Authority for its written approval. No works shall commence until the control plan has been approved, and the works shall be carried out in accordance with the control plan.**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 41 Prior to commencement of development, details of a wheel cleaning facility and of its siting shall be submitted to and approved in writing by the Local Planning Authority. The facility shall be used to clean the wheels of vehicles associated with construction on the site in order to ensure that no mud or debris is deposited on the public highway and it is to be retained in the approved position until the Local Planning Authority agrees to its removal**

**Reason: To protect the environment of people in neighbouring properties and general environmental quality and in the interests of highway safety in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP3, CP4, and Borough Local Plan 1994 policy U2 and T8**

- 42 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any order revoking and re-enacting that Order with or without modification, no development shall be carried out within Part 24 Class A and Part 25 Classes A and B to those Orders.**

**Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, Borough Local Plan 1994 policy C11, and SPD1 (Design and Townscape Guide)**

- 43 Prior to commencement of each phase of the development a report shall be submitted to the Local Planning Authority estimating the overall**

energy requirements of that phase of the development and demonstrating how renewable energy technologies can be integrated into the design of the scheme in a cost effective manner. On receipt of the report the Local Planning Authority shall agree with the applicant what renewable technologies are to be incorporated into the design of the scheme in order that at least 10% of the scheme's overall energy requirements are obtainable from renewable resources produced on site. The development shall be carried out in accordance with the approved details.

**Reason:** To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the NPPF, East of England Plan 2008 policy SS1, ENV7, ENG1, WAT1 and WAT4, DPD1 (Core Strategy) policy KP2 and CP4, and SPD1 (Design and Townscape Guide).

- 44 The Stadium Hotel shall not be brought into first use until the stadium development is complete and the facilities available for play of league football matches.

**Reason:** To ensure that the development is completed and used as agreed and to ensure that it meets the requirements of DPD1 (Core Strategy) 2007 policies KP1, KP2 and CP2.

- 45 No development shall take place until details of a left turn from the eastbound carriageway of Eastern Avenue to Fossetts Way have been submitted to and approved in writing by the Local Planning Authority shown indicatively on Drawing No. 114521-OS-022 Rev C. Thereafter the development shall not be commenced until the approved works have been undertaken as approved.

**Reason:** In the interests of highway safety in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2 and Borough Local Plan 1994 policy T8

- 46 Unless otherwise agreed in writing with the local planning authority, and with the exception of the portacabin accommodation shown to the north of the stadium, Phase 1a (the stadium) of the development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan number(s): POP – 3093-A-ST-E-00-PL-030 02, POP – 3093-A-ST-E-00-PL-031 02, POP-3093-A-ST-SE-00-PL-040 002, POP-3093-A-ST-SE-00-PL-041 02, POP-A-XX-GA-01-XXXX-0000 03 L01, POP-A-XX-GA-02-XXXX-0000 02 L02, POP-A-XX-GA-03-XXXX-0000 01, POP-A-XX-GA-04-XXXX-0000 02, L04

**Reason:** In the interests of visual amenity and to ensure that vitality of the development is maintained and to ensure that the appearance of the development makes a positive contribution to the character and



appearance of the area. This is as set out in East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, Borough Local Plan 1994 policy C11, and SPD1 (Design and Townscape Guide).

- 47 Unless otherwise agreed in writing with the local planning authority, Phases 1b (the stadium), 2 (Retail) and 3 (Residential) of the development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan number(s):

HOK-3093-A-SI-P-02-PL-001 Rev 01, HOK-3093-A-SI-P-06-PL-002 Rev 01, HOK-3093-A-SI-E-00-PL-003 Rev 01, HOK-3093-A-S-P-00-PL-010 Rev 01, HOK-3093-A-S-P-01-PL-011 Rev 01, HOK-3093-A-S-P-01M-PL-012 Rev 01, HOK-3093-A-S-P-02-PL-013 Rev 01, HOK-3093-A-S-P-03-PL-014 Rev 01, HOK-3093-A-S-P-04-PL-015 Rev 01, HOK-3093-A-S-P-05-PL-016 Rev 0, HOK-3093-A-S-P-06-PL-017 Rev 01, HOK-3093-A-S-S-00-PL-018 Rev 01, HOK-3093-A-S-E-00-PL-019 Rev 01, HOK-3093-A-RE-P-01-PL-021 Rev 02; HOK-3093-A-RE-P-02-PL-022 Rev 01; HOK-3093-A-RE-E-00-PL-023 Rev 01; HOK-3093-A-RE-S-00-PL-024 Rev 01; HOK-3093-A-RE-E-00-PL-025 Rev 01; HOK-3093-A-HO-P-00-PL-030 Rev 01; HOK-3093-A-HO-P-00-PL-031 Rev 01; HOK-3093-A-HO-P-00-PL-032 Rev 01; HOK-3093-A-HO-E-00-PL-033 Rev 01; HOK-3093-A-HO-S-00-PL-034 Rev 01

Reason: Reason: In the interests of visual amenity and to ensure that vitality of the development is maintained and to ensure that the appearance of the development makes a positive contribution to the character and appearance of the area. This is as set out in East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, Borough Local Plan 1994 policy C11, and SPD1 (Design and Townscape Guide).

- 48 No concerts shall take place within the stadium until Phase 1b (the west stand) is completed.

To protect the environment of people in neighbouring properties and the users of the Garden of Remembrance to protect and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2

- 49 Prior to commencement of Phase 1a of the development details of the proposed acoustic fence and “berm” shall be submitted to the Local Planning Authority together with a noise assessment demonstrating their impact on noise emanating from the Phase 1a development. The fence and “berm” shall be installed in accordance with the approved details, prior to first use of Phase 1 of the development and shall be permanently maintained thereafter.

Reason: To protect the environment of people in neighbouring properties and the users of the Garden of Remembrance to protect and general environmental quality in accordance with the NPPF, East of England Plan

**2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

- 50 Prior to first use of the stadium (Phase 1a or 1b) hereby approved 530 car parking space(s) shall be provided to serve the stadium in accordance with plan nos. HOK-3093-A-SP-P-02-PL-001 and shall thereafter be permanently retained for the parking of vehicles of people working in or visiting the stadium or calling there for business purposes unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that satisfactory car parking is available to serve the stadium and in the interests of sustainability, amenity and highways efficiency and safety, in accordance with East of England Plan 2008 policy T8, DPD1 (Core Strategy) 2007 policy KP2, Borough Local Plan 1994 policy T8 and T13, and SPD1 (Design and Townscape Guide).**

- 51 Prior to display of any LCD screens within the stadium or application site details of the proposed screens, together with a noise assessment of their impact shall be submitted to and approved by the Local Planning Authority, the screens shall only be displayed in accordance with the approved details.**

**Reason: To protect the environment of people in neighbouring properties and the users of the Garden of Remembrance to protect and general environmental quality in accordance with the NPPF, East of England Plan 2008 policy ENV7, DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy U2**

**c)In the event that the planning obligation referred to in part (a) above has not been completed within 3 months of the resolution to grant planning permission such that planning permission would have been granted, then the Director of Enterprise, Tourism and the Environment or Head of Planning & Transport or Group Manager of Development Control & Building Control be authorised to consider whether permission should be refused on the grounds that it has not proved possible to complete a S.106 agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the obligation that would have been secured; if so, the Head of Planning & Transport or Group Manager of Development Control & Building Control are authorised to determine the application and agree appropriate reasons for refusal under delegated authority**

**Reason for Approval**

**This permission has been granted having regard to East of England Plan 2008 policy SS1, SS2, SS3, SS5, SS7, T1, T4, T9, T13 T14, H1, H2, ENG 1, ENV3, ENV6, ENV7, WM6, ETG1, ETG4. DPD1(Core Strategy) policy KP1:**

**KP2, KP3, CP1, CP2, CP3, CP4, CP6, CP7,CP8; Borough Local Plan 1994 policy; C1,C4, C11, C14, H5, H7, E5, U1, U2, T1, T8, T11, T12, T13, T14, and SPD1 (Design and Townscape Guide) together with Government guidance and all other material considerations including any representations. The carrying out of the development permitted, subject to any conditions imposed, would accord with those policies and in the opinion of the local planning authority there are no circumstances which otherwise would justify the refusal of permission. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

**Informatives:**

- 01 Separate planning permission will be required for the portable buildings shown to the north of the stadium on plan ref: POP-A-XX-GA-01-XXXX-0000 01**
- 02 Lighting schemes for installation of external lighting submitted for approval under a planning condition should be accompanied by an assessment under the Institution of Lighting Engineers Guidance Note for the Reduction of Obtrusive Light.**
- 03 A scheme of noise insulation required to be submitted to comply with a planning condition should be prepared by a suitably qualified and experienced noise consultant who would normally be member of the Institute of Acoustics and/or Association of Noise Consultants.**
- 04 The applicant is reminded that this permission is separate to the need to comply with Food Safety and Health & Safety at Work laws. These will include the Food Safety Act 1990 (as amended), the Food Hygiene (England) Regulations 2006, Regulation (EC) 852/2004 and the Health and Safety at Work Etc. Act 1974. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG.**
- 05 Compliance with this decision notice does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended). Contact 01702 215005 for further information.**
- 06 The premises are likely to require a premises licence under the Licensing Act 2003.**

- 07 All work and investigations associated with contaminated land should be in accordance with the advice in the Essex Contaminated Land Consortium publication “Land Affected by Contamination Technical Guidance for Applicants and Developers” second edition. A copy is available via the link below:  
[http://www.contaminatedland.org/lac/essexconsort\\_guidance.htm](http://www.contaminatedland.org/lac/essexconsort_guidance.htm)  
Alternatively, a hard copy of the document may be obtained free of charge by contacting the Environmental Protection section (telephone number 01702 215005)**